

OFFICIAL REPORT OF PROCEEDINGS  
BEFORE THE  
NATIONAL LABOR RELATIONS BOARD  
REGION 3

In the Matter of:

Starbucks Corporation,	Case Nos.
	03-CA-285671, 03-CA-290555,
Employer,	03-CA-291157, 03-CA-291196,
	03-CA-291197, 03-CA-291199,
and	03-CA-291202, 03-CA-291377,
	03-CA-291378, 03-CA-291379,
Workers United,	03-CA-291381, 03-CA-291386,
	03-CA-291395, 03-CA-291399,
Union.	03-CA-291408, 03-CA-291412,
	03-CA-291416, 03-CA-291418,
	03-CA-291423, 03-CA-291431,
	03-CA-291434, 03-CA-291725,
	03-CA-292284, 03-CA-293362,
	03-CA-293469, 03-CA-293489,
	03-CA-293528, 03-CA-294336,
	03-CA-293546, 03-CA-294341,
	03-CA-294303, 03-CA-206200

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**UNITED STATES OF AMERICA**  
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and

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 03-CA-294303, 03-CA-206200

The above-entitled matter came on for hearing, pursuant to notice, before **MICHAEL A. ROSAS**, Administrative Law Judge, at the National Labor Relations Board, Region 3, Robert H. Jackson United States Courthouse U.S. District Court for the Western District of New York, 2 Niagara Square Wyoming Courtroom, 5th Floor, Buffalo, New York 142020, on **Tuesday, September 13, 2022, 9:16 a.m.**



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I N D E X

	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
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1                                    **P R O C E E D I N G S**

2            JUDGE ROSAS:    Next witness?

3            MR. BALSAM:    Respondent calls Kathleen Kelly.

4            JUDGE ROSAS:    Raise your right hand, please.

5    Whereupon,

6                                    **KATHLEEN KELLY**

7    having been duly sworn, was called as a witness herein and was  
8    examined and testified as follows:

9            JUDGE ROSAS:    State and spell your name.    At all times  
10    speaking in a loud voice.    And provide us with an address as  
11    well.

12           THE WITNESS:    My name is Kathleen Kelly.    It's  
13    K-A-T-H-L-E-E-N, Kelly, K-E-L-L-Y.    My address is 2401 Utah  
14    Ave. in Seattle, Washington.

15                                    **DIRECT EXAMINATION**

16    Q       BY MR. BALSAM:    Good morning.

17    A       Good morning.

18    Q       Who are you currently working for?

19    A       Starbucks Coffee Company.

20    Q       How long have you worked for Starbucks?

21    A       Since 2018.

22    Q       What was the first -- first position you held at  
23    Starbucks?

24    A       Partner resources manager.

25    Q       And where were you a partner resources manager?



- 1 A In the Washington, DC area.
- 2 Q What was the next position you held with Starbucks?
- 3 A That's been my position the whole time.
- 4 Q And what is your job duties and responsibilities as a
- 5 partner resource manager?
- 6 A I am a business partner to the regional director. So
- 7 working on our staffing as far as having the right leaders,
- 8 building capabilities in order to prepare leaders for future
- 9 positions so that we're fully staffed.
- 10 Q Okay. Do you cover a particular region for Starbucks?
- 11 A Yes. Area 156.
- 12 Q Okay. And what is Area 156?
- 13 A It's upstate and western New York.
- 14 Q From 2018 to the present, have you been charged with
- 15 oversight over Area 156?
- 16 A From 2018, no.
- 17 Q When did you start having responsibility over Area 156?
- 18 A In October of 2021.
- 19 Q Prior to October 2021, what areas did you have oversight
- 20 over?
- 21 A Maryland and Philadelphia, and the Philadelphia suburbs.
- 22 Q Were your job duties and responsibilities the same in the
- 23 prior region as they are in Area 156?
- 24 A Yes.
- 25 Q How did you end up with oversight over Area 156?

1 A My director called and asked if I would be willing to  
2 come.

3 Q And who was your director at that time?

4 A Her name is Jen Mynatt.

5 Q Is Jen still the director?

6 A Yes.

7 Q And you said earlier with respect to your job duties and  
8 responsibilities, you're charged with supporting the regional  
9 director?

10 A Uh-huh.

11 Q Who is the regional director at the time that you took  
12 over Area 156?

13 A Deanna Pusatier.

14 Q And at the time that you took over Area 156, do you know  
15 what region Deanna was responsible for?

16 A I do not, actually.

17 Q Was it larger than Area 156?

18 A I'm not sure.

19 Q In your job -- in your role as a partner resource manager,  
20 who do you typically work with?

21 A I work most closely with the regional director, also with  
22 the district managers as well. And then, obviously, my  
23 immediate partner resources director.

24 Q And in -- in working with those job titles, what is your  
25 primary role with respect to those job -- those individuals?

1     A     Each of them? The director, so the term is "business  
2     partner". So we'll work with them as far as our employees. So  
3     employee related issues, employee planning. As far as the  
4     district managers are concerned, sometimes it's just more  
5     nuance situations that they might have going on, if they need  
6     help, also just seeing how they're doing as far as learning,  
7     and their relationship with the director. And then as far as  
8     my direct report, partner resources director, just staying in  
9     contact with her, what we're working on, strategy, any  
10    assistance that might be needed.

11   Q     Are you familiar with the term "PDC"?

12   A     Yes, I am.

13   Q     What is that?

14   A     That's a performance and development conversation.

15   Q     And what is a performance and development conversation?

16   A     It is a conversation between a leader and either an hourly  
17    partner or a manager, they happen at all levels, about  
18    performance and development of a partner.

19   Q     I want to -- do you have documents in front of you?

20   A     Yes.

21   Q     I want to draw your attention to a document that has been  
22    marked for identification as Exhibit R-141.

23   A     Uh-huh.

24   Q     Do you recognize Exhibit R-141?

25   A     Yes.

1 Q What is Exhibit R-141?

2 A This is the discuss guide for PDC.

3 Q And what is the purpose of this document?

4 A This is meant to help leaders with having a conversation  
5 to make sure that they're hitting the important parts, and  
6 covering all aspects of what we want to get out of the  
7 conversation.

8 Q Have you personally used this document in your practice?

9 A Yes.

10 MR. BALSAM: Judge, I move for the introduction into  
11 evidence of Exhibit 1 -- R-141.

12 MS. PENDER-STANLEY: Voir dire.

13 **VOIR DIRE EXAMINATION**

14 Q BY MS. PENDER-STANLEY: Ms. Kelly, do you know how long  
15 this particular version of the document has been in effect?

16 A This particular one, I'm not -- I'm not sure, no.

17 Q Have you used this version of it before?

18 A Yes.

19 Q When was the first time you sued this version that you  
20 remember?

21 A I don't specifically remember this version, I just know  
22 that there's always been a discussion guide since I've been  
23 with the company.

24 MS. PENDER-STANLEY: No objection.

25 JUDGE ROSAS: Charging party?



1 MR. HAYES: No objection.

2 JUDGE ROSAS: Respondents 141 is received.

3 **(Respondent Exhibit Number 141 Received into Evidence)**

4 **RESUMED DIRECT EXAMINATION**

5 Q BY MR. BALSAM: Other than using this discussion guide in  
6 your practice at Starbucks, do you have any other tools that  
7 you use to aide partners in their progression at Starbucks?

8 A Yeah, and I think that would be, you know, the  
9 conversation. It's -- it's not meant that the only time that  
10 we would have a discussion about a partner's development is  
11 just with this guide, it's throughout conversations.

12 Q How often does that occur with partners?

13 A The formal conversations happen twice a year with hourly  
14 partners.

15 Q Is there any formal conversations that happen with  
16 partners during the year that's outside the scope of the career  
17 progression PDC?

18 A Yes, there should be.

19 Q All right. What -- what -- what is the purpose of that  
20 conversation?

21 A It keeps the conversation going. So we don't just want to  
22 talk about someone's career dreams twice a year. So it's  
23 something where the conversation is meant, really, as a check  
24 in, you know, how are we doing, basically in the off season.

25 Q In front of you is another document, it's Exhibit R-142



1 marked for identification. Do you see that document?

2 A Yes.

3 Q What is this document?

4 A This is a performance and development, it's another  
5 document that we use for discussing a partner's career  
6 planning.

7 Q And when is this document used?

8 A This is actually used throughout, so not specifically just  
9 during performance and development conversations, but any time  
10 a partner's not sure in -- in their career journey, where they  
11 are, where they want to go.

12 Q And is -- how is this document made available to partners?

13 A It's on the Partner Hub.

14 Q And as you're looking at this document, do you know when  
15 you first started using this particular document?

16 A This has been since -- since I started with the company.

17 Q So back in 2018?

18 A Yes.

19 MR. BALSAM: Judge, I move into evidence R-142.

20 MS. PENDER-STANLEY: No objection.

21 MR. HAYES: No objection.

22 JUDGE ROSAS: Respondent's 142 is received.

23 **(Respondent Exhibit Number 142 Received into Evidence)**

24 Q BY MR. BALSAM: Just going back to the PDC talk for a  
25 moment, who's responsible for ensuring that PDCs are actually



1 occurring?

2 A It would be the store manager and the partnership of the  
3 district manager.

4 Q Is there any checks and balances to ensure that those  
5 actually occur?

6 A It would be with the district manager and talking to their  
7 store manager.

8 Q Is this the expectation that your department has in all  
9 the markets that you ever worked in?

10 A Yes.

11 Q Now, in your role as a partner resource manager, are you  
12 also involved in discipline?

13 A Yes.

14 Q How so?

15 A Typically as a -- a consult so I can provide  
16 recommendation.

17 Q And who did you -- how do you become aware that there's a  
18 need for a consult by someone else with respect to discipline?

19 A Yeah, it could come from a district manager. It could  
20 also come from our partner relations team.

21 Q And what are the levels of discipline that Starbucks  
22 imposes on its partners?

23 A As far as the different -- so documented coaching, written  
24 warning, final written warning.

25 Q Has that always been Starbucks practice with respect to





1 the different types of discipline that are imposed?

2 A Yes.

3 Q To your knowledge, based on your time at Starbucks?

4 A Yes, since I've been with the company.

5 Q And what is your partic -- other than consulting with the  
6 store managers and the district managers, what is your  
7 department's specific role with respect to discipline?

8 A We are most often used to just make sure that we're being  
9 consistent within our local market. So we have our policies,  
10 partner relations helps us with that, and then, from my  
11 standpoint, I'll come in and say this is what we've done  
12 consistently in the market just to make sure that we're --  
13 we're sticking to that.

14 Q And how does your department know that you're being  
15 consistent with discipline in the market?

16 A Say that one more time.

17 Q Sure. How do you know that you're engage -- you're --  
18 you're recommending discipline that is consistent with other  
19 disciplines in the market?

20 A Most often it's in -- one, it's based on what I'm aware of  
21 that's happened in the past, but also in partnership with  
22 partner relations.

23 THE COURT REPORTER: She's too loud.

24 MR. BALSAM: Oh.

25 THE WITNESS: Am I? Sorry. I thought I was too quiet.

1 THE COURT REPORTER: She's coming through too loud on the  
2 recording.

3 MR. BALSAM: So you don't have to sit as close as you are.

4 THE WITNESS: Sorry.

5 MR. BALSAM: That's all right.

6 THE WITNESS: I'm a loud talker.

7 Q BY MR. BALSAM: Now, you -- you have a role in discipline,  
8 are you the final decision maker with respect to discipline?

9 A No.

10 Q Who is?

11 A The operators.

12 Q And who are the operators?

13 A It would be the store manager and the district manager.

14 Q In a situation where there is a disagreement between a  
15 store manager and district manager about what type of  
16 discipline to impose, who wins that discussion?

17 A Between a district manager and a store manager?

18 Q Correct.

19 A It would be the district manager.

20 Q Has that always been the practice based on your time at  
21 Starbucks?

22 A Yes.

23 Q Do you know a partner by the name of Julie Almond?

24 A Yes.

25 Q Who is Julie Almond?

1 A She was a store manager with us.

2 Q Do you know where Julie was a store manager?

3 A At the Williamsville, Main Street store.

4 Q Is Julie still a store manager at Williamsville, Main  
5 Street?

6 A No, she is not.

7 Q When did Ju -- Julie no longer be -- when was Julie no  
8 longer a store manager at Williamsville, Main Street?

9 A In November of 2021.

10 Q Do you know why Julie seized working for Starbucks in  
11 November of 2021?

12 A There were concerns around her performance, and --

13 Q Sorry. Were you involved in discussions regarding the  
14 concerns about her performance?

15 A Yes.

16 Q In what regard?

17 A Basically in communicating with her that the expectations  
18 were set, and that she continued to not meet them, and that  
19 there were concerns around her ability to perform the  
20 expectations of the store manager.

21 Q Do you have any -- do you remember any specific examples  
22 of some of the performance concerns that you shared with Julie  
23 prior to her separation from Starbucks?

24 A Yeah. Holding her team accountable for various  
25 violations, and then also just ensuring that she was creating

1 an environment for her team where people wanted to work.

2 Q Do you know a partner by the name of Matt Mor -- Morreale?

3 A Yes.

4 Q You do?

5 A Yes.

6 Q Who is Matt Morreale?

7 A He was a former store manager with us.

8 Q And where was Matt a store manager?

9 A At the Sheridan and Bailey store.

10 Q When you say he's a former store manager, when -- when did  
11 he cease working for Starbucks?

12 A In October of 2021.

13 Q Were you involved in Matt's separation from Starbucks in  
14 October of 2021?

15 A Yes, I was.

16 Q Do you recall the circumstances surrounding his separation  
17 from Starbucks?

18 A I do.

19 Q And what was that?

20 A He was -- we had our COVID -- COVID protocols that we had  
21 put in place for the safety of our partners and customers, and  
22 part of the store manager's responsibility is to ensure that  
23 all partners are going through a check-in process when they  
24 arrive for work. And on several occasions, he did not ensure  
25 that that had happened.

1 JUDGE ROSAS: Excuse me. Do you want her looking at  
2 Respondent's 143?

3 MR. BALSAM: I -- I -- Judge, I was going to ask her just  
4 to talk about it, and then I was going to --

5 JUDGE ROSAS: Just turn it over until he --

6 THE WITNESS: Oh, sure.

7 JUDGE ROSAS: -- refers you to it.

8 THE WITNESS: Sorry.

9 MR. BALSAM: I'm sorry, Judge. Thank you.

10 A So we have the check-in process, and so on several days  
11 the check-in logs were not able to be found by the district  
12 manager. The district manager spoke to him about it, and he  
13 said, oh, yes, I have them, I can get them to you, and he  
14 wasn't able to. So we had concerns, not only with him not  
15 completing the logs, but also there was an integrity concern as  
16 well.

17 Q BY MR. BALSAM: I'm going to show you what's been marked  
18 for identification as R-143, which is in front of you. I think  
19 you just flipped over. Do you recognize R-143?

20 A Yes, I do.

21 Q And what is R-143?

22 A This the separation notice for Matt.

23 Q And this is involving the -- the circumstances you just  
24 described that led to his termination?

25 A Yes.

1 Q And I noticed on here, it says witness signature, K.  
2 Kelly, and next to it is Kathleen Kelly, is that you?

3 A Yes, it is.

4 Q And why were you a witness for this particular separation?

5 A In this case, the -- because it was a store manager, so we  
6 wouldn't have a -- a store manager witness another peer being  
7 separated. So I went with the district manager.

8 Q Is that typical practice in your department to be involved  
9 in a store manager separation?

10 A Not usually, but in this case it was the most convenient.

11 MR. BALSAM: Judge, I move into evidence R-143.

12 MS. PENDER-STANLEY: Judge, my only concern is the  
13 legibility of the document. I don't know if it's possible to  
14 get a clearer copy. Other than that, I have no objection, I'm  
15 just concerned with the quality once it's scanned, and  
16 uploaded, and all that.

17 MR. BALSAM: Judge, we'll look to see if we can get a  
18 better copy of it. If it helps, I mean, the witness could  
19 probably read what it says. I can read what it says. But I --  
20 I understand the concern of the Counsel for the General  
21 Counsel.

22 JUDGE ROSAS: Understood. Any -- any other objection?

23 MS. PENDER-STANLEY: Not from General Counsel.

24 MR. HAYES: No objection, Judge.

25 JUDGE ROSAS: All right. So I'll receive Respondent's

1 143.

2 **(Respondent Exhibit Number 143 Received into Evidence)**

3 MR. BALSAM: Thank you, Judge.

4 Q BY MR. BALSAM: Ms. Kelly, at the bottom of R-143, where  
5 it says partner signature, above it it says refuse to sign, who  
6 wrote that?

7 A I did.

8 Q Is -- is it because Mr. Morreale refused to sign this  
9 particular document?

10 A Yes.

11 Q Is that typical practice of Starbucks when a partner is  
12 terminated and refuses to sign, the partner who is delivering  
13 the separation notice typically writes refuse to sign on a  
14 document?

15 A Yes.

16 Q And what is the purpose of that?

17 A Just to confirm that it was delivered to the -- the  
18 partner, and that they stated that they were not going to sign  
19 it.

20 Q Now, with respect to this particular separation for  
21 failure to comply with the COVID check-in logs, but also  
22 integrity issues, have you had occasion to impose discipline on  
23 other partners for similar situations?

24 A Yes.

25 Q Do you have any recollection of any partners that you were



1 involved with, with respect to similar instances that resulted  
2 in a termination?

3 A I can recall them, yes.

4 Q I want to draw your attention to the stack of documents in  
5 front of you, what has been previously marked and introduced  
6 into evidence as GC-161.

7 MR. BALSAM: And Judge, and Court Reporter, just for the  
8 sake of everyone, I wrote on here GC-161, because when we pre-  
9 marked, we didn't realize that it had already been introduced,  
10 so I just hand wrote it, but it's the same document.

11 Q BY MR. BALSAM: Ms. Kelly, do you recognize the document,  
12 that on the bottom it says GC-161?

13 A Yes.

14 Q And what do you recognize this document to be?

15 A This is a separation notice for partner Nathan Tarnowski.

16 Q Were you involved in Mr. Tarnowski's separation from  
17 Starbucks?

18 A Yes, I was.

19 Q And do you recall the circumstances as to why Mr.  
20 Tarnowski was separated from Starbucks?

21 A (b) (6), (b) (7)(C)

22 (b) (6), (b) (7)(C)

23 (b) (6), (b) (7)(C)

24 (b) (6), (b) (7)(C)

25 (b) (6), (b) (7)(C)



1 (b) (6), (b) (7)(C)

2 Q From your perspective, was Mr. Tarnowski's separation on  
3 similar grounds as Mr. Morreale's separation from Starbucks?

4 A Yes.

5 Q And why?

6 A (b) (6), (b) (7)(C)

7 (b) (6), (b) (7)(C)

8 (b) (6), (b) (7)(C)

9 Q At the time of Mr. Tarnowski's separation, did you know  
10 whether or not Mr. Tarnowski was a supporter of the Union?

11 A No.

12 Q And was Mr. Tarnowski's termination motivated in any way  
13 for his support for the Union?

14 A No.

15 Q Now, we discussed the COVID checks, I want to draw your  
16 attention to what has been marked for identification as  
17 Respondent's 144, which is in front of you.

18 A Yep.

19 Q Do you recognize Respondent's 144?

20 A Yes.

21 Q What is Respondent's 144?

22 A This is the information around the -- what we call the  
23 partner precheck, or the COVID check-in.

24 Q And is this document made available -- was this document  
25 made available to partners?

1 A Yes.

2 Q How was it made available to partners?

3 A On the Partner Hub, and the information is also on the  
4 check-in log as well.

5 Q And what -- what was the purpose of Respondent's 144?

6 A To provide the clarity around the purpose of the check-in  
7 log, but also how to -- how to fill it out accurately.

8 MR. BALSAM: Judge, I move into evidence R-144.

9 MS. PENDER-STANLEY: No objection.

10 MR. HAYES: No objection.

11 JUDGE ROSAS: Respondent's 144 is received.

12 **(Respondent Exhibit Number 144 Received into Evidence)**

13 Q BY MR. BALSAM: In -- in your role, about how often did  
14 you receive calls regarding potential discipline of partners?

15 A Pretty frequently throughout the week.

16 Q And in your department, how many other people are there  
17 that are involved in working with store managers and district  
18 managers with respect to imposing discipline?

19 A So there are other PRNs within the region.

20 Q So -- I'm sorry.

21 A Yeah.

22 Q And in -- in your particular region, how many PRNs are  
23 there?

24 A I believe there are three additional right now.

25 Q And are they responsible for specific segments within the



1 region?

2 A Yes.

3 Q Where do those segments -- how are they broken out?

4 A It's broken out by areas.

5 Q Okay. What are the areas that are in the region that  
6 you're involved with?

7 A There are -- it's either eight or nine areas within the  
8 northeast region.

9 Q I'm going to draw your attention to the final document in  
10 front of you, which is R-150. It's a three-page document. Do  
11 you recognize these three pages?

12 A Yes.

13 Q What do you recognize these three pages to be?

14 A These are various corrective actions for a partner,  
15 Marceau (phonetic throughout).

16 Q Were you involved in the corrective actions that are  
17 reflected in R-150?

18 A Yes.

19 Q What was your recollection of what occurred in this  
20 particular situation?

21 A I was made aware of just the consistent violations that  
22 had happened, and the progressive discipline.

23 Q Now, you mentioned "progressive discipline", can you  
24 elaborate on what that means?

25 A Yep. Meaning there had been multiple occasions where the

1 partner concerns were addressed as far as attendance. So  
2 starting out with the first level, moving to a written warning,  
3 a final written warning, and then separation.

4 MR. BALSAM: Judge, I move into evidence R-150.

5 MS. PENDER-STANLEY: Voir dire, Your Honor.

6 **VOIR DIRE EXAMINATION**

7 Q BY MS. PENDER-STANLEY: Ms. Kelly, were you present when  
8 any of these three disciplines were issued?

9 A No, I was not.

10 Q Did you draft these -- any of these documents yourself?

11 A No, I did not.

12 Q Do you know who drafted them?

13 A It would be, most likely, the store manager.

14 Q And did you -- have you seen them before preparing for  
15 today?

16 A Yes.

17 Q In what context did you see them?

18 A Typically, it's just to review for the context, are we  
19 following the correct, progressive discipline.

20 MS. PENDER-STANLEY: I'm going to object, Your Honor, for  
21 a couple of reasons. First, this witness didn't prepare or  
22 issue these disciplines.

23 Second, they're signed by someone who already testified,  
24 who I think would've been a better witness to enter them  
25 through. And then finally, just to the extent, I don't know if

1 Respondent intends to offer them as comparative data, but  
2 they're -- they post-date the -- the organizing campaign, so I  
3 don't think they'd be appropriate for that purpose. So those  
4 are my objections.

5 MR. HAYES: Charging Party joins in those objections.

6 MR. BALSAM: So Judge, they are business records. This  
7 witness has testified that she had the ability to access this  
8 document, just as the Counsel for the General Counsel moved in  
9 evidence of corrective action forms without a single witness  
10 testifying, the same reasons as that, this should not be any  
11 issue. This witness is a corporate representative of the  
12 Respondent, and has the ability to access this, and therefore  
13 as a business record, there's no reason why this document  
14 should not be introduced into evidence.

15 JUDGE ROSAS: Does the General Counsel contest their  
16 authentication as a business record?

17 MS. PENDER-STANLEY: No, Your Honor, although I would  
18 point out that when the General Counsel introduced -- produced  
19 documents as those record, because we don't have control over  
20 Respondent's employees to -- and managers to bring them in to  
21 testify. Respondent does have control, essentially, over the  
22 people who actually issued these disciplines and could have  
23 them testify.

24 MR. BALSAM: Judge --

25 MS. PENDER-STANLEY: Was this document produced?

1 MR. BALSAM: Yes.

2 JUDGE ROSAS: To the General Counsel?

3 MR. BALSAM: Yes.

4 JUDGE ROSAS: Okay. So your -- I think your primary  
5 objection is that it -- it post-dates the -- the --

6 MS. PENDER-STANLEY: The campaign.

7 JUDGE ROSAS: -- currents of the alleged actions. And  
8 however, there's been a wealth of information spilling over  
9 into 2022, and while I understand the General Counsel's focus  
10 that things at or around the time when stuff goes to pot, you  
11 know, really doesn't have as much weight. It, nevertheless,  
12 does have weight as far as what the Respondent's practice was  
13 before and after, to the extent that it's always been what it  
14 is.

15 So you can all argue the weight that I'm supposed to give  
16 this in assessing the Respondent's burden to establish  
17 consistent application of disciplinary processes. So I'm going  
18 to overrule the objection.

19 Respondent's 150 is received.

20 **(Respondent Exhibit Number 150 Received into Evidence)**

21 **RESUMED DIRECT EXAMINATION**

22 Q BY MR. BALSAM: Ms. Kelly, with respect to Respondent's  
23 150, which has just been introduced into evidence, did you have  
24 any knowledge as to whether this particular partner was a  
25 supporter of the Union?

1 A No.

2 Q Would the decision to impose this type of discipline --  
3 would the fact that the person is a supporter of the Union,  
4 have any weight in this decision-making?

5 A No, it's irrelevant.

6 MR. BALSAM: I have nothing further, Judge.

7 JUDGE ROSAS: General Counsel?

8 MS. PENDER-STANLEY: Yes, thank you, Your Honor.

9 **CROSS-EXAMINATION**

10 Q BY MS. PENDER-STANLEY: Ms. Kelly, do you know how long  
11 Julie Almond was a store manager before she was separated from  
12 Starbucks?

13 A I believe it was seven years.

14 Q What about Matt Morreale, do you know?

15 A I do not know off the top of my head.

16 Q Looking at Respondent 143, which is the notice of  
17 separation for Matthew Morreale.

18 A Uh-huh.

19 Q You signed this, obviously, so you -- you were present  
20 when it was issued?

21 A Yes.

22 Q You were in Buffalo at the time?

23 A Yes.

24 Q Do you frequently travel to the location where a partner  
25 is being separated to be a witness?

1 MR. BALSAM: Objection, relevance.

2 JUDGE ROSAS: Overruled. You can answer. Did you finish  
3 your question?

4 MS. PENDER-STANLEY: Yes.

5 Q BY MS. PENDER-STANLEY: Do you frequently travel to -- to  
6 the place where a partner is being separated to participate in  
7 the conversation?

8 A Not in every separation, no.

9 Q Why did you go to this one?

10 MR. BALSAM: Objection. Asked and answered.

11 JUDGE ROSAS: Overruled.

12 A In this case, there was not another person who -- who was,  
13 I guess, on -- on my level or district manager level to go.

14 Q Do you -- is it true that you traveled from Washington DC  
15 to Buffalo to participate in that conversation?

16 MR. BALSAM: Objection. Relevance.

17 JUDGE ROSAS: Overruled.

18 A No, I did not.

19 Q BY MS. PENDER-STANLEY: Were you already in Buffalo?

20 A Yes.

21 Q How long had you been in Buffalo?

22 MR. BALSAM: Objection. Relevance, outside the scope of  
23 direct.

24 JUDGE ROSAS: Overruled.

25 A At this time it had been about a week.





1 Q BY MS. PENDER-STANLEY: How long did you stay after this  
2 separation was delivered?

3 MR. BALSAM: Objection. Relevance, outside the scope of  
4 direct.

5 JUDGE ROSAS: Lost the line of questioning here. Hold on.  
6 Repeat the question. And there's an objection, no need to  
7 restate it.

8 MS. PENDER-STANLEY: How long after this discipline was  
9 issued did you stay in the Buffalo area.

10 JUDGE ROSAS: Hold on. Overruled. You can answer.

11 A I'm still currently in the Buffalo market.

12 MS. PENDER-STANLEY: I have nothing further.

13 MR. HAYES: No questions, Judge.

14 JUDGE ROSAS: No questions, okay.

15 **REDIRECT EXAMINATION**

16 Q BY MR. BALSAM: Ms. Kelly, you said you're currently in  
17 the Buffalo market. Do you reside in Buffalo?

18 A No, I do not.

19 MR. BALSAM: Nothing further.

20 JUDGE ROSAS: Anything?

21 MS. PENDER-STANLEY: No, Your Honor.

22 JUDGE ROSAS: Your testimony's concluded. Thank you for  
23 coming today. Do not discuss your testimony with anyone until  
24 counsel advises you that the record and the case is closed, all  
25 right?

1 THE WITNESS: Okay. Thank you.

2 JUDGE ROSAS: Have a good day.

3 Off the record. Let's take five.

4 (Off the record at 9:45 a.m.)

5 JUDGE ROSAS: All right. On the record.

6 Next witness?

7 MR. BALSAM: Corrin Crowley.

8 JUDGE ROSAS: Raise your right hand.

9 Whereupon,

10 **CORRIN CROWLEY**

11 having been duly sworn, was called as a witness herein and was  
12 examined and testified as follows:

13 JUDGE ROSAS: All right. State and spell your name and  
14 provide us with an address.

15 THE WITNESS: First name is Corrin, C-O-R-R-I-N, last name  
16 Crowley, C-R-O-W-L-E-Y. And I receive mail at the legal  
17 address.

18 MR. BALSAM: We'll accept service on behalf of this  
19 witness. Thank you, Judge.

20 THE WITNESS: Good morning.

21 JUDGE ROSAS: You're a resident -- you're a resident to  
22 what state?

23 THE WITNESS: Massachusetts.

24 **DIRECT EXAMINATION**

25 Q BY MR. BALSAM: Good morning.



- 1 A Good morning.
- 2 Q Where are you currently employed?
- 3 A I work at Starbucks Coffee Company.
- 4 Q How long have you worked for Starbucks?
- 5 A Almost nine years.
- 6 Q What was the first position you held with Starbucks?
- 7 A I was a barista.
- 8 Q Where were you a barista?
- 9 A I worked in the Marlborough, Massachusetts store in  
10 western Massachusetts.
- 11 Q And how long were you a barista in the Marlborough,  
12 Massachusetts location?
- 13 A About two years.
- 14 Q And after you were a barista in Marlborough,  
15 Massachusetts, what was the next position you held at  
16 Starbucks?
- 17 A I worked as a partner relations -- or partner resources  
18 coordinator. So I supported partner resources directors across  
19 the eastern coast.
- 20 Q And what is a partner resources -- I'm sorry, you said  
21 partner resources --
- 22 A Coordinator.
- 23 Q Coordinator.
- 24 A Um-hum.
- 25 Q What does a partner resources coordinator do?

1 A You see around corners for your directors to make sure  
2 that you have them set up for success. It's an admin position.  
3 But then you also work with their teams, and -- and help  
4 execute the -- the PR strategy. We call it partner relations  
5 because everyone at Starbucks is a partner, but it's basically  
6 a human resources role.

7 Q Okay. And how long did you hold that role for?

8 A I was in the role for four years, and then I took a time-  
9 limited assignment. And then moved to my current role.

10 Q And what was the time-limited assignment that you took?

11 A I worked as a senior partner resources associate  
12 supporting the retail organization, which isn't a position that  
13 usually exists. But we had a situation where we were hiring  
14 two new partner resources managers from outside the  
15 organization, and we knew it would be a long onboarding. So I  
16 helped fill the gap and onboard because I was going for my HR  
17 certification at the time.

18 Q And what is your current role at Starbucks?

19 A I work as a senior partner resources associate in our  
20 partner relations team.

21 Q And what do you do in that particular role?

22 A I help support our managers, both store managers and  
23 district managers, in solving things that may be complex or  
24 challenging from a human resources standpoint. And I also  
25 support partners when they call in with concerns.

1 Q And can you give us an examples of the things that you  
2 would view as complex that you would be involved with in your  
3 current job duty?

4 A Theft, anything that may not be clear where it requires an  
5 investigation. Or things where sometimes they're more basic,  
6 but new managers are uncomfortable, so they call for support  
7 and we're just there to help.

8 Q And do you cover a particular region and market in your  
9 role?

10 A I do. Were divided into three teams. I'm in the east  
11 pod, so we support from Canada all the way down to Florida  
12 along the eastern seaboard. And we've got a central pod that  
13 supports the middle of the country. And then there's a west  
14 pod that supports the western seaboard.

15 Q And if you know, how many stores are within that east --

16 A Oh, gosh.

17 Q -- coast pod?

18 A I don't even know. Yeah, I don't know.

19 Q Does that pod that you're currently in cover the Buffalo  
20 market?

21 A It does.

22 Q Has it has always covered the Buffalo market?

23 A It has.

24 Q And when did you first become a senior partner  
25 relations --



1     A     For the partner relations team, I started in March of  
2     2020. I had an auspicious start.

3     Q     And who do you report to?

4     A     My manager's name is Melaine Keen.

5     Q     And what is Melaine's job title?

6     A     She's a partner relations manager.

7     Q     Do you have anybody who reports to you?

8     A     I do not.

9     Q     How many members are part of the -- your team on the east  
10    coast pod?

11    A     There are eight SPRAs right now. It ebbs and flows a  
12    little bit. We need more people because we've got so much  
13    volume to cover. But there's eight of us right now.

14    Q     In your role, are you involved in partner discipline?

15    A     I don't like the word "discipline". But yes, I am  
16    involved in making recommendations for corrective action. And  
17    we view it as clear communication so that a partner can  
18    succeed. We are not looking to discipline people or make them  
19    feel bad.

20    Q     And to what degree are you involved in that process which  
21    I'll call discipline.

22    A     I make recommendations to managers. Sometimes they call  
23    up thinking that they might want to go one direction and we'll  
24    have conversations. And I dig into the details and I'll make a  
25    recommendation as to what I would see as the right next step.

1 Q And what do you make those recommendations -- what do you  
2 base your recommendations on?

3 A We calibrate all the time. So I talk to my peers all day  
4 long. Whenever there's anything that I'm at all unsure about  
5 or I just feel like talking to a friend, we talk to one another  
6 about cases.

7 Q So you say -- use the word "calibrate". What does that  
8 mean?

9 A It means that we want to make sure that we're consistent  
10 and fair. So if there's anything that we're at all unsure  
11 about that's not just really cut and dry, and most things are  
12 not cut and dry, because situations are complex, and people are  
13 messy. And we talk to one another to make sure that we're all  
14 on the same page. And we meet as a team and we meet  
15 individually. And oftentimes, people will just put it on our  
16 Teams chat can anyone calibrate.

17 Q As part of the calibration process, are you speaking with  
18 other partners outside of your particular team?

19 A Sometimes. We have centers of excellence that help  
20 support. So if there's topics like a threat of violence, we  
21 have a threat assessment board that helps support with that.  
22 We have certain things that go to our ethics and compliance  
23 team. And oftentimes, if there's an ENC concern, they will  
24 overlap with other things that fall within my scope. So we'll  
25 partner together on things.

1 Q Has your practice with respect to partnering with centers  
2 of excellent be consistent throughout the time in your role?

3 A Yes. It started because I was less comfortable, and then  
4 it evolved. Because I think it's the most effective way. The  
5 worst thing for a partner is if they have a concern, and they  
6 call it in, and it comes to me, and then I pass it to ENC, and  
7 then they decide it's not all theirs and they pass it back.  
8 And the time goes on, people want their concerns to be heard  
9 and addressed right away. So we try and make sure that we do  
10 that.

11 Q As part of the process to consult with you, from whether  
12 it's a store manager or a district manager, is there a set time  
13 frame in which you have to close out a case?

14 A Not close it out. They do track it. I've never had  
15 anyone talk to me about how long it takes. I feel like I do  
16 the right work, so I probably leave things open a little longer  
17 than my peers. But in my viewpoint, if you call me, you have a  
18 need, and I want to make sure your need is met. And sometimes  
19 that's with a recommendation for corrective action or a next  
20 step. And sometimes that's just that the manager feels  
21 uncomfortable, because they're in a spot they haven't been in  
22 before, and they just need a little coaching and -- and  
23 consult.

24 Q Is -- is it uncommon, from your perspective, for a store  
25 manager to contact you with respect to discipline?





1 A No. That happens every day.

2 Q Does it happen every day in all of the markets in which  
3 you cover?

4 A It does.

5 Q Has that been consistent throughout the time in which you  
6 were holding -- holding your position?

7 A It has. The only time when its ebbed a little bit was  
8 when we offered partners the opportunity to not work when COVID  
9 was at its peak. And so a lot of our stores were closed by  
10 partner choice. And so there was fewer partner concerns and  
11 fewer corrective action consults, but there was a lot of  
12 support in other ways.

13 Q In your role, have you -- in your role in providing --  
14 having conversations about whether to issue a corrective  
15 action, have you ever worked with store managers to issue a  
16 document to coaching?

17 A I have.

18 Q A final written warning?

19 A Absolutely.

20 Q A written warning?

21 A Yep.

22 Q Notice of separation?

23 A Absolutely. And there are times when I also recommend a  
24 conversation rather than taking disciplinary action, as you  
25 call it.



1 Q What -- what would be a situation where you would  
2 recommend a conversation as opposed to a formal document?

3 A Sometimes a partner will have time and attendance concerns  
4 that are based upon something that may be medically related, or  
5 there may be something going on. And in every situation, one  
6 of the steps I always recommend is having a discovery  
7 conversation. We want to find out why. If a partner is  
8 suddenly showing up late for work, we want to understand why.  
9 Is there anything we can do to support? Do they need to change  
10 their availability? That type of thing. And so we always have  
11 discovery first.

12 But if we uncover that they're -- they're struggling with  
13 something, sometimes we'll have the conversation instead where  
14 we offer them all of our resources. If you need time away from  
15 work, that's fine. You can apply for a leave of absence. If  
16 you need, you know, some help getting to work. We have a lift  
17 to work program. If you need help with childcare, we have care  
18 at work. We've got lots of resources that not all partners are  
19 aware of. And so I will often recommend that we have this  
20 discovery and make sure the partners know what's available for  
21 them.

22 Q And along those lines, how are partners made aware of  
23 policies and procedures applicable to them?

24 A When you start at Starbucks, you have what's called a  
25 first sips. You sit down with your manager and they kind of

1 talk you through what to expect. They give you a copy of the  
2 partner guide and review some of the policies with you. You're  
3 given that guide to take home, but it's a lot to take in.  
4 Like, truly, when I took the job at Starbucks, I thought, how  
5 hard could it be to pour coffee? And it's much more complex  
6 than that.

7 Q Now, in terms of policy and procedures with respect to  
8 time and attendance and dress code, how are partners made aware  
9 of those policies?

10 A They have the partner guide. Their manager coaches them.  
11 Coaching is really encouraged at Starbucks. So we believe in  
12 360-degree coaching. So partners, coach managers, and -- and  
13 vice versa. But if you're late for work, your shift  
14 supervisor, or your shift manager, whoever is in charge of the  
15 shift at that time, should ask you why, and you know, what's  
16 going on. And make you aware that it doesn't work for the  
17 business. Because when you're late, everybody else is standing  
18 there short staffed and that's really challenging.

19 Q So you mentioned coaching is encouraged. In your  
20 experience, are partners reminded consistently of policies and  
21 procedures that are applicable to them?

22 A Absolutely. A partner should not be surprised by any  
23 corrective action that comes their way.

24 Q And in your experience in your role since March of 2020,  
25 have you ever been aware of a situation where a partner has

1     been issued a discipline without knowledge of a policy?

2     A     No. One of the things we'll ask when a policy is less  
3     common is, is the partner aware of the policy. Like things  
4     when they post an inappropriate video at work, we'll ask, is  
5     the partner aware of the -- of the social media policy? And we  
6     take that into consideration when we make our recommendation.

7     Q     Have you ever heard the term level setting?

8     A     Yes. We often recommend when there's a store that may not  
9     be consistently following policies, that we level set with all  
10    the partners so everyone is aware that what we've been doing is  
11    not okay and is not going to continue before we start issuing  
12    corrective action to that effect.

13    Q     And are you -- in your role and in the time that you've  
14    been in your role since March of 2020, are you aware of which  
15    markets having engaged in level setting?

16    A     There's lots of stores that need to engage in level  
17    setting. Wherever the store manager has not been strong or  
18    consistent in -- in adhering to the policies, when a new  
19    manager comes in, oftentimes there's a bit of a culture shock  
20    for the partners there. And we'll recommend sitting down with  
21    the partners, one on one, and reviewing the policies that  
22    they're struggling with. Like time in attendance or dress  
23    code. And offering them the opportunity to ask questions and  
24    letting them know that this is what you're going to be held  
25    accountable to going forward.

1 Q How would your department know if a store manager in a  
2 particular market was not abiding or complying with the  
3 policies and procedures?

4 A We ask a lot of probing questions when people call. So  
5 one of the things I'll ask, if someone has time in attendance  
6 concerns is, is this common for your store? Is this common for  
7 the partner? If this is a partner that's been with us for five  
8 or six years, and then all of a sudden they start showing up  
9 late for work, what's going on, you know, what's behind it?  
10 Because we want to understand that. And it doesn't mean we  
11 won't issue corrective action, because we want to be clear  
12 about what we expect, but we'll -- we'll definitely want to  
13 understand what's going on and try and provide resources to  
14 support them. Ultimately, we want to see the partner succeed.

15 Q Are you aware of a level setting occurring in the Buffalo  
16 market in the fall of 2021

17 A I am.

18 Q How are you aware of that?

19 A It became -- it came to our attention that there were a  
20 number of managers that were not adhering to the policies in  
21 the stores. And that the stores were not up to our standard.  
22 And so as new managers were coming in, or support managers were  
23 coming, and we recommended level setting on a variety of  
24 topics. Including time and attendance and dress code. Those  
25 were the most common.

1 Q And to your knowledge, prior to the level setting  
2 occurring in the Buffalo market in the fall of 2021, were there  
3 partners who were disciplined who were not aware of that  
4 policy?

5 A Not to my knowledge. But it -- it -- not to my knowledge.

6 Q There's a stack of documents in front of you. And I want  
7 to draw your attention to what has been marked for  
8 identification as R-167.

9 Ms. Crowley, do you recognize what has been marked as  
10 R-167?

11 A This is the printout of a consult case that I had with a  
12 store manager.

13 Q And -- and with respect to this particular document,  
14 what -- what is going on here in this document? What are we  
15 seeing?

16 A It looks like the store manager called in because they had  
17 a partner that was violating the time and attendance policy and  
18 they were looking for support.

19 Q And then with respect to the -- the content that is on  
20 these pages here, who enters this information?

21 A The store manager called what we call the Partner Contact  
22 Center. It's the main Starbucks number that you can call for a  
23 variety of support on -- on many issues. And then it got  
24 routed to my team, because it was a store manager looking for  
25 support with a partner.

1 Q And so the content that is -- it says case notes, who  
2 enters that information?

3 A It starts by the person who took the case at the PCC. It  
4 looks like it was a person in Christina M. (phonetic  
5 throughout). And then it came to me. The cases are randomly  
6 assigned for the most part. And we receive between -- anywhere  
7 between like 8 and 14 cases a day. And I call them back the --  
8 the next day when I received them.

9 Q And how is this document maintained at Starbucks?

10 A So we have an online system that's separate from our  
11 normal outlook email, and that's how we communicate with store  
12 managers on partner cases.

13 Q Okay.

14 A So this came from our role system, which is an Oracle  
15 based system.

16 MR. BALSAM: Judge, I'd like to move into evidence R-167?

17 MS. STANLEY: Just a brief voir dire?

18 **VOIR DIRE EXAMINATION**

19 Q BY MS. STANLEY: If you look at the third page of the  
20 document --

21 A Um-hum.

22 Q -- toward the bottom where it says resolution requested,  
23 SM is seeking a CA consult. What's CA?

24 A Corrective action.

25 Q And where it says "SO and DM are leaning towards issuing a



1 DC", what's a DC?

2 A Documented coaching.

3 Q And then on the previous page, the second page of the  
4 document, kind of third going down it says, I have attached  
5 draft DCC. What is a DCC?

6 A A documented coaching conversation, probably. I'm not  
7 sure. It's something that the manager sent back to me. We  
8 were asking managers to send in a copy of what they were  
9 proposing to deliver. So that we could make sure that it was  
10 clear.

11 MS. STANLEY: My only objection, Your Honor, is I don't  
12 see the relevance of -- I mean, this isn't the actual  
13 discipline itself. It's a record of communication lecture with  
14 relevancies.

15 JUDGE ROSAS: Hold on. Before you get to that, we have a  
16 pile.

17 MR. BALSAM: We have a lot of these, Judge. So we can  
18 probably have the same discussion now that were going to have  
19 about all of these documents, because they're all the same.

20 MS. STANLEY: Yeah, and my objection would be the same for  
21 each of them.

22 JUDGE ROSAS: Okay.

23 MR. BALSAM: So -- so Judge, consistent with what -- what  
24 we've discussed the past, this witness -- maybe we should step  
25 out for a minute.



1 JUDGE ROSAS: I think it's worth it. Sure. Come on back  
2 in about three minutes.

3 MS. STANLEY: I don't have a --

4 JUDGE ROSAS: Go ahead.

5 MR. BALSAM: So in the past, we've had a discussion about  
6 something similar where we were not sure whether or not the  
7 actual discipline that was recommended was actually imposed.  
8 This witness will testify that she made recommendations. She  
9 applied consistent practices across the board with respect to  
10 each one of these particular discussions about discipline. She  
11 will testify that she made her recommendations.

12 As to whether or not they were actually provided to the  
13 partner, she won't be able to testify to that. But again, it's  
14 more for background to show that Starbucks, in fact, did engage  
15 in consistent practices with respect to all of these partners  
16 at issue in this case.

17 JUDGE ROSAS: So do I understand the relevance to include  
18 a direct relationship between each of these documents and  
19 someone who has been referred to previously in this record, or  
20 just with respect to the process that has followed?

21 MR. BALSAM: It's the process that's followed, Judge. So  
22 that we -- we're -- because there's been a lot of discussion  
23 about how discipline actually comes about in this case. And so  
24 this particular witness, given her role, and her job duties,  
25 and responsibilities, is the most competent person to testify

1 about once she receives a phone call about a potent --  
2 potential issue with a partner, what the process is. And it  
3 goes -- and it shows the back and forth dialog between her and  
4 a store manager or a district manager about what -- what should  
5 be done for the particular partner based on the circumstances  
6 at issue.

7 JUDGE ROSAS: So --

8 MR. BALSAM: It's more of a process discussion, Judge, and  
9 not necessarily a comparative discussion. But it goes to show  
10 that the point of this is to show that we apply consistent  
11 practices across the board.

12 JUDGE ROSAS: So I'm just doing a quick scan --

13 MR. BALSAM: Sure.

14 JUDGE ROSAS: -- of what I think are the names involved.  
15 That would be under primary subject information?

16 MR. BALSAM: Yeah. And then it says partner name.

17 JUDGE ROSAS: And do any of them in this pile relate to  
18 any of the first -- any of the alleged discriminatees? Well,  
19 yeah, I guess --

20 MR. BALSAM: No, Judge.

21 JUDGE ROSAS: -- it's all of the discriminatees, right?

22 MR. BALSAM: No, Judge. None -- none of these have to do  
23 with the discriminatees. It's just showing that other partners  
24 in this market who had similar issues were presented to Ms.  
25 Crowley's department for consideration for discipline, and what

1 her recommendation and what her understanding of as to what  
2 that recommendation was ultimately done for that particular  
3 partner.

4 JUDGE ROSAS: So if we were to receive this piece of the  
5 picture, will we had the other piece of the picture,  
6 specifically, these type of documents that are generated by Ms.  
7 Crowley with respect to the discriminatees?

8 MR. BALSAM: So Judge, what we're going to be doing with  
9 another witnesses is to have another witness who is going to  
10 introduce into evidence the actual corrective action forms of  
11 comparators that flowed from these types of discussions. I  
12 presented these -- and this maybe is a discussion we have next  
13 for the next witness, but I gave the Counsel for the General  
14 Counsel a preview of all of those corrective action forms to  
15 see if we can come to an agreement as to those corrective  
16 action forms being introduced into evidence as business  
17 records.

18 But the next witness will discuss about 100 corrective  
19 action forms, both before and after the Union campaign started  
20 to show comparatives. This doc -- this alone, Judge, is solely  
21 to provide the Court with background information about the  
22 process that goes into place with respect to the recommendation  
23 for discipline, and to show consistency purposes.

24 JUDGE ROSAS: But again, I'm asking with respect to these  
25 type of documents, and we'll call them --

1 MR. BALSAM: These are known as PRSC files.

2 JUDGE ROSAS: -- PRC files?

3 MR. BALSAM: PRSC files.

4 JUDGE ROSAS: PRSC files that precede a corrective action.

5 MR. BALSAM: Correct.

6 JUDGE ROSAS: Okay. So are we going to have PRSC files  
7 for the discriminatees?

8 MR. BALSAM: No, Judge.

9 JUDGE ROSAS: Were there none?

10 MR. BALSAM: He may have produced them Judge. I just at  
11 this point in time I can't recall if we have that. The purpose  
12 of these document -- these particular documents is again, it's  
13 sort of a hybrid. One is to show the background and the  
14 process that goes into make decisions with respect to a  
15 particular discipline. But also to show what the  
16 recommendation ultimately was for this. It's more background.  
17 Again, the weight that you're going to -- to give to this is  
18 probably not similar.

19 JUDGE ROSAS: I understand, but if I were to receive this  
20 as background as the practice that is always implemented, how  
21 do I know that it was implemented with respect to the  
22 discriminatees unless that's in record? And I think that's --  
23 I mean --

24 MR. BALSAM: Well --

25 JUDGE ROSAS: -- maybe I'm missing something here, but it

1 just seems like a gap right now.

2 MR. BALSAM: We -- we've had testimony already. One from  
3 the discriminatees themselves where they have acknowledged and  
4 agreed to all of the misconduct that was imposed.

5 JUDGE ROSAS: Right. No. I understand that.

6 MR. BALSAM: They agree. They agree. They acknowledge  
7 it. We've had testimony from managers who were involved in  
8 those decisions. Talking about what the process was. What  
9 they did. Again, I -- I can confirm that at some point today  
10 that we did produce these -- the PRSC files for the  
11 discriminatees themselves. I believe we did.

12 JUDGE ROSAS: It's not that you didn't produce them, or  
13 you did produce them.

14 MR. BALSAM: Sure.

15 JUDGE ROSAS: It's -- it's that I think I want them in the  
16 record. I mean, you know, when you have corrective action  
17 plans, notices of separation for discriminatees, and then you  
18 introduce comparable evidence for others who are not the  
19 discriminatees, then I can see, okay, there was comparable  
20 discipline or there was not. So -- you know, I'm going to  
21 receive these on the condition that I -- well, subject to any  
22 other objection by the General Counsel and Changing Party. But  
23 if I do receive them, I'm going to need -- I'm going to receive  
24 them on the condition that we get them for the discriminatees.  
25 All of the discriminatees.

1 MS. STANLEY: And my other objection, Your Honor, would  
2 just be that I think without the corresponding disciplines that  
3 were issued after receiving these recommendations, I don't see  
4 how the recommendations -- I mean, they show consistency in the  
5 internal process, but they don't show any consistency with the  
6 actual disciplines that were issued. Because we don't have --  
7 this doesn't show that discipline was actually issued. Without  
8 the actual discipline form, I don't see how it's proven in  
9 terms establishing consistent discipline practices.

10 JUDGE ROSAS: Well, let's -- let me just pass that over to  
11 the Respondent. Would the discipline, if any, that resulted  
12 from any of these -- and I forget the acronym again.

13 MR. BALSAM: PRSC.

14 JUDGE ROSAS: But Respondent 181, 167 -- through 181,  
15 would they have been produced to the General Counsel?

16 MR. BALSAM: The corrective actions for --

17 JUDGE ROSAS: For these individuals, if any?

18 MR. BALSAM: I believe so. Yes, Judge.

19 JUDGE ROSAS: Okay. So --

20 MR. BALSAM: But again, this witness --

21 JUDGE ROSAS: -- that -- that -- that suffices for my  
22 purpose. You could put those in evidence. There -- there --  
23 if you want. I'm not going to preclude this evidence because  
24 it's not also matched up with -- with discipline. It -- it  
25 suffices for their purposes. Now, whether they do it or not,

1     you have an argument that it -- it only goes so far. But --  
2     but as far as them putting this evidence into the record, it  
3     suffices for me to ensure that there's no gap in the record in  
4     order for them to make their comparable discipline argument  
5     that there was or was not something similar to this that was in  
6     the process. And the thought process of the organization  
7     leading to the corrective action. So any-- anything else?

8           MR. HAYES: Your Honor, the Charging Party has the same  
9     objection. Just based on relevance.

10          MS. STANLEY: Yeah.

11          JUDGE ROSAS: Nothing else?

12          MS. STANLEY: That's it. That --

13          MR. HAYES: As I understand your -- your condition, Your  
14     Honor, I think that covers the concern.

15          MR. BALSAM: Again, Judge, the purpose of these documents  
16     is the show the process -- the process that's followed.

17          JUDGE ROSAS: Of course.

18          MR. BALSAM: This witness can testify about the process  
19     being followed with everyone in the market. It was consistent.  
20     That's the point of this witness.

21          JUDGE ROSAS: Absolutely. Absolutely.

22          MR. BALSAM: So do I understand that you are allowing  
23     these documents, all of them, into evidence?

24          JUDGE ROSAS: Conditionally.

25          MR. BALSAM: Okay.

1 JUDGE ROSAS: Upon receipt for the corrective action. I'm  
2 sorry. Not the corrective action. Tell me the acronym again?

3 MR. BALSAM: PRSC file for the discriminatees.

4 JUDGE ROSAS: The PRSC files for the discriminatees. To  
5 the extent that there are no PRSC files for any of the  
6 discriminatees, and that's any of the discriminatees for which  
7 there are alleged violations of 83 or 81. No. They're all at  
8 83. You know, I'll have to take that under, you know,  
9 advisement as to how to -- to how deal with that.

10 MR. BALSAM: That's fair.

11 JUDGE ROSAS: Okay.

12 MR. BALSAM: Thank you, Judge. May I go get the witness?

13 JUDGE ROSAS: Okay. So -- so no, before the witness comes  
14 in, did we establish sufficient foundation, or do you want more  
15 foundation for all these? What we can do is we can address all  
16 of them. Okay.

17 MS. STANLEY: Yes.

18 JUDGE ROSAS: And then you can address any foundational  
19 issues that you have. Okay? But otherwise, with respect to  
20 the admissibility otherwise of these documents, we've already  
21 addressed that. We know where I'm going with them, okay?

22 MS. STANLEY: Right.

23 JUDGE ROSAS: All right.

24 MR. BALSAM: Understood. Thank you, Judge.

25 MS. STANLEY: And after looking through, it does seem like



1 this witness participated in each of these in some way. So I  
2 don't have other questions about this hearing like that.

3 MR. HAYES: Same.

4 JUDGE ROSAS: So is there anything else that I need to be  
5 aware of before I rule on it now? So we can get right to the  
6 evidence?

7 MS. STANLEY: No. I don't believe so, Your Honor.

8 MR. BALSAM: For all of these?

9 JUDGE ROSAS: And you're offering 167 for 181 (sic)?

10 MR. BALSAM: Yes, Judge.

11 JUDGE ROSAS: Okay. So Respondent's 167 through 181 (sic)  
12 are received conditionally based on our previous discussion.

13 **(Respondent Exhibit Number 167 through 179 and 181 Received**  
14 **into Evidence)**

15 Is there a 180?

16 MR. BALSAM: No, Judge. Sorry. It does not. We took it  
17 out.

18 JUDGE ROSAS: Okay.

19 MR. BALSAM: Sorry. So everything but 180. May I  
20 proceed, Judge? Thank you.

21 **RESUMED DIRECT EXAMINATION**

22 Q BY MR. BALSAM: Ms. Crowley, looking at Respondent's  
23 Exhibit R-167, we were talking about how this came to your  
24 attention. You were involved in the discussion about this  
25 particular partner?

1 A I was, yes.

2 Q And from your recollection of this particular document,  
3 what did you understand was going on here with respect to this  
4 partner?

5 A On 6/11/'22, the barista was two and a half hours late for  
6 their shift. And on 6/15/'22, they were an hour and four  
7 minutes late for their shift.

8 Q And with respect to the store manager that reached out to  
9 you, what was the discipline that the store manager wanted to  
10 impose on this particular partner?

11 A They were seeking to issue a document of coaching.

12 Q Is that a typical first step in the process of discipline?

13 A Yes. Wherever possible, we like to have progressive  
14 corrective action, because it provides clear communication to  
15 the partner that something needs to change.

16 Q And based on your review of this file, did this particular  
17 partner have a prior history of discipline?

18 A Not that I can see.

19 Q If a partner has a history of similar policy violations.  
20 For example, in this case, time and attendance, would there be  
21 a different conversation that would be happening?

22 A If they had already received a document of coaching or a  
23 written warning for something similar, we would -- or for  
24 anything, we would move on to the next step in progressive  
25 corrective action.

1 Q And based on your recollection of this particular partner,  
2 what was the recommend -- what was ultimately imposed on this  
3 partner?

4 A I documented coaching. I can see here where I sent it  
5 back to the manager.

6 Q Did you know if the -- the manager in question here  
7 actually had a document to coaching with this particular  
8 partner?

9 A I never know if it's delivered unless I ask for a copy of  
10 the signed document, which we don't typically do. So I assume  
11 so.

12 Q In -- in your department in-- in your role, would you be  
13 able to obtain copies of actual corrective actions forms that  
14 are issued to the particular partner following a recommendation  
15 that's made by your department?

16 A I can ask, but that's not typical. Sometimes we do ask  
17 for copies of documents. Especially if there's any concern  
18 that they may not have been delivered.

19 Q And was the document to coaching recommendation for this  
20 particular partner consistent with the way that your  
21 department would've made recommendations for all the partners?

22 A 100 percent.

23 Q You can put that down. Turning your attention to Exhibit  
24 R-168. Do you recognize R-168?

25 A I can see that this is a case that I handled. Actually,

1 no, this is a case that my peer Ronetta Woods-Honorable  
2 (phonetic throughout) handled. But I can see that I've put  
3 notes in it.

4 Q Why -- why would you have put notes on this, if this was a  
5 case by a different clerk?

6 A Roe (phonetic throughout) is a newer partner. And I often  
7 will support partners in their -- their development and  
8 onboarding. So Roe was just starting to learn the culture and  
9 what she needed to do for next steps for cases. And so I was  
10 supporting her in the beginning.

11 Q And in this particular situation, what was this -- what  
12 was the situation that was brought to your attention concerning  
13 this partner?

14 A Let me just read through quickly. So it looks like this  
15 partner's got a pretty extensive corrective action history.

16 Q For -- for what?

17 A Time and attendance. She received a documented coaching,  
18 a written warning, and then a final written warning for time  
19 and attendance. The final was delivered on 6/27 of '22.

20 Q And when you were first brought into this, what was the  
21 request by the store manager with respect to the type of  
22 discipline to be imposed?

23 A The store manager was looking to separate the partner.

24 Q Did you ultimately agree with that recommendation?

25 A No. We recommended that the manager call our leave of

1 absence provider, and put the partner on a leave of absence, or  
2 open leave of absence on their behalf.

3 Q Why didn't you concur with the recommendation to separate  
4 this partner for time and attendance violations?

5 A That's why my department exists, because sometimes  
6 managers will want to take a course of action that they feel is  
7 right. But we want to make sure we're consistent and fair.  
8 And we have the resources there to support the partner. So in  
9 this case, it -- it looks like the partner was calling out  
10 because there was a medical component. And so we'd rather  
11 support them with a leave, rather than having them be  
12 separated.

13 Q And did you apply consistent practices with respect to  
14 this partner as you would with any partner in your role?

15 A We did. We went back and had the discovery conversation  
16 to find out what was going on, and then, uncovered the medical  
17 component that we then took into consideration.

18 Q Now, drawing your attention to R-169. Do you recognize  
19 R-169?

20 A It looks like another case with the same manager that was  
21 handled by Roe. And I likely supported it. If I remember  
22 correctly, there were a number of cases that came in that I  
23 helped support her with.

24 Q And in this particular situation, which is R-169, what  
25 was -- what was the reason why your team was brought into --

1 JUDGE ROSAS: Your Honor, I'm going to object into this  
2 line of questioning for this exhibit through R-181, as  
3 cumulative. The witness is clearly just reading from the  
4 documents and testifying in a conclusory way that consistent  
5 practices were applied. I -- we can say that that would be her  
6 testimony with respect to all of these exhibits. But the  
7 testimony isn't adding anything to the record.

8 JUDGE ROSAS: I -- I understand that, Counsel. However --  
9 oh, what is it, about 15, 15 of them, 14, 15 of them, to the  
10 extent that they have anything distinguishable about them, that  
11 she could perhaps explain. But -- but I understand. I mean,  
12 obviously, we're not going to have her read through the  
13 entirety of these. I -- I assume counsel has select questions  
14 with respect to each of them, and he's going to try to have  
15 explained or provide further background.

16 MR. BALSAM: Judge, if the counsel for the General Counsel  
17 and the Union want to stipulate to the fact that this  
18 particular witness apply consistent practices, with respect to  
19 the consideration of discipline for each one of these partners  
20 at issue, I'm happy to stop asking any questions about these  
21 documents.

22 MS. STANLEY: I'm not prepared to stipulate, Judge.

23 JUDGE ROSAS: Go ahead.

24 MR. BALSAM: I'm sorry, sir.

25 JUDGE ROSAS: Continue. Overruled. Continue.

1 Q BY MR. BALSAM: So Ms. Crowley, we were talking about R-  
2 169 and how you got -- came to become involved in this.

3 A Um-hum.

4 Q And what were the reason why you were involved, to your  
5 recollection?

6 A Roe was new to her role. And I was helping her understand  
7 how we approach things and just helping maintain that  
8 consistency.

9 Q And what was the particular issue with this partner?

10 A Looks like the partner had time and attendance issues  
11 after receiving progressive corrective action discipline for --  
12 discipline, as you would say, for the time and attendance that  
13 they -- had already taken place.

14 Q And to your recollection, what was the -- the  
15 recommendation by the store manager for this particular  
16 partner?

17 A I believe they were also looking for separation. But I'd  
18 have to read through the notes to know for sure. Yeah,  
19 separation consult.

20 Q And at the end of the day, what was the ultimate  
21 recommendation that you made with respect to this partner?

22 A We recommended the manager have a memorialized  
23 conversation to the final written warning, just reminding the  
24 partner that they're on a final written warning. And that they  
25 would need to adjust their behavior in order to remain

1 employed.

2 Q Why did you make that recommendation?

3 A Sometimes there are situations that cause us to pause for  
4 a minute on separation, that -- make sure that we've had all  
5 the relevant conversations with the partner, if there's any  
6 confusion over our expectations or there was any communication  
7 gaps on our part. I don't know the specifics here, but that's  
8 typically when we pause.

9 Q And -- and you're saying you don't recall the specifics of  
10 why there was a pause here?

11 A I don't. We handle a lot of cases, so I don't remember  
12 specific partners.

13 Q Okay. On here, does it -- is there a reflection as to  
14 what the ultimate recommendation was on this particular  
15 document?

16 A Yeah. It was advised that they have a memorialized  
17 conversation with a shift supervisor, as opposed to separation.  
18 They wanted to make sure that they memorialize the date and  
19 topic of coaching conversation for future reference. They  
20 recommended that the manager stay up to date with any requests  
21 for -- for additional support. And they advised that they set  
22 expectations with the team on attendance and punctuality. So  
23 there might have been some gap in -- in consistently holding  
24 the entire team accountable. So it sounds like they were  
25 recommending level setting with the team again. And I



1 apologize, this writing is so small, it's hard for me to read  
2 this.

3 Q No, that's o -- that's okay. And was this consistent with  
4 the practice that you had utilized with respect to similar  
5 situations in your role?

6 A Absolutely.

7 Q Drawing your attention to R-170. Were you involved in  
8 this particular matter involving this partner?

9 A Yes. This is a case that was called in, and I handled.

10 Q And what -- what was the situation with this particular  
11 partner?

12 A Partner was 25 minutes late, partner was 5 minutes late.  
13 And then, they were using their phone on the floor, which is  
14 not something that we allow or support.

15 Q And to your knowledge, what was the -- the proposed  
16 recommendation by the store manager who contacted you with  
17 respect to this partner?

18 A It doesn't look like they -- they proposed anything. They  
19 were just looking for guidance on corrective action.

20 Q And what was your ultimate recommendation with respect to  
21 this partner?

22 A This partner had no corrective action on file, so we  
23 started with a documented coaching.

24 Q Is that a typical practice that you utilize in your role?

25 A It is.

1 Q Is it always a situation, where if a partner does not have  
2 any prior corrective actions for a policy violation that you  
3 would not ultimate -- go right to a written warning or a final  
4 written warning?

5 A There are some situations that are serious enough that  
6 we'll recommend a written warning or a final written warning,  
7 just to indicate the gravity of the situation to the partner.

8 Q What would be a situation where you would escalate to a  
9 written warning or a final written warning?

10 A A threat of violence. Use of foul language is one that we  
11 take seriously. There are some cases where we move right to  
12 separation, like if you use a racial slur, we have a zero  
13 tolerance policy for that.

14 Q Ms. Crowley, if you turn your attention to R-171. Do you  
15 recall being involved in a -- in R-171?

16 A This is another one of my cases.

17 Q And what was happening here?

18 A Looks like the district manager reached out. Partner was  
19 scheduled at 10 a.m. and arrived at 1:30. They were three and  
20 a half hours late for work.

21 Q And in this particular situation was there an initial  
22 recommendation by the partner, with respect to dis -- proposing  
23 discipline on the other partner?

24 A No. I don't see that the manager was seeking any  
25 particular outcome. They were just looking for support.

1 Q And what was your recommendation, with respect to this  
2 particular partner?

3 A Ultimately -- sorry, I have to read through the notes.  
4 Looks like we started with the documented coaching. It looks  
5 like that partner had some ongoing irregular attendance, so I  
6 provided a dialog for the manager to have that was step-by-step  
7 instructions on what conversation we expected them to have with  
8 the partner. And then, the partner also had some availability  
9 issues. So then, I followed up with some guidance on the  
10 conversation to have with the partner about their availability.

11 Q Why -- why'd you make the recommendation to provide a  
12 documented coaching, if this particular partner had a history  
13 of time and attendance issues?

14 A Because we want to be clear that it can't continue, or it  
15 would lead to additional corrective action.

16 Q Is that your typical practice?

17 A It is.

18 Q Drawing your attention to R-173. Were you involved in  
19 R -- in this situation that's described in R-173?

20 A I was. I consulted with the store manager on this.

21 Q All right. What was the situation with this particular  
22 partner?

23 A The partner was 69 minutes late for -- for work. So I  
24 confirmed there was no prior corrective action on file, and  
25 that we had had a level-setting conversation already. So we

1 moved to a documented coaching.

2 Q And was that a typical -- a typical practice that you  
3 utilize in your role?

4 A It is.

5 Q Now, drawing your attention to R-174. Do you recognize R-  
6 174?

7 A I do.

8 Q Were you involved in the matter described in R-174?

9 A I -- I was.

10 Q And what was the situation here?

11 A The partner was late two times on 12/24. They were 55  
12 minutes late, and on 1/1, they were 40 minutes late.

13 Q And what was the recommendation that you made with respect  
14 to this particular partner?

15 A A documented coaching.

16 Q Did this partner have any history of time and attendance  
17 issues?

18 A They did not. They didn't have any corrective action on  
19 file. And we already had had a level-setting conversation with  
20 them.

21 Q And did you -- is the recommendation you gave here  
22 consistent with the practice that you utilize in your role  
23 since March of 2020?

24 A It is.

25 Q Turning to your attention to R-175. Do you recognize R-



1 175?

2 A I do.

3 Q Were you involved in R-175?

4 A I was. I consulted with the manager on corrective action.

5 Q Okay. And what was the situation with respect to this  
6 particular partner?

7 A The partner was four hours late on 12/27 of '21.

8 MR. BALSAM: We'd move --

9 A We'd had the --

10 Q BY MR. BALSAM: I'm sorry.

11 A -- the corrective. I'm sorry. I'm just going to answer  
12 the questions I anticipate you're going to ask. We had the  
13 level-setting conversation already. And they didn't have any  
14 corrective actions, so we started with the documented coaching.

15 Q And is that the consistent practice that you utilize with  
16 respect to imposing discipline upon partners since March of  
17 2020?

18 A It is.

19 Q Ms. Crowley, turning your attention to R-176. Do you  
20 recognize R-176?

21 A I do.

22 Q Were you involved in the situation occurring in R-176?

23 A I do. I remember this, yes.

24 Q All right. What was your recollection of what occurred  
25 here?

1 A The partner had a number of violations. And so the  
2 manager was looking for support.

3 Q And what was the ultimate recommendation that you made  
4 with respect to this particular partner?

5 A The partner received the documented coaching. During the  
6 course of the consult, there was a dress code violation, so we  
7 included that. But we did not address the time and attendance.  
8 It was covered by the use of protected sick time, which we  
9 offered to the partner.

10 Q I'm sorry. Did you say you did not address the time and  
11 attendance?

12 A Well, no. We didn't address the time and attendance. It  
13 was -- that was covered by the use of protected sick time.

14 Q Understood. So because there was a situation where the  
15 time and attendance issue was covered by sick time, there was  
16 no need to issue any type of discipline or action here?

17 A We still issued the documented coaching for the time that  
18 was not protected -- well, not covered by protected sick time,  
19 and that was the dress code violation as well.

20 Q And with respect to this partner, did you utilize the same  
21 process that you've utilized with respect to all partners under  
22 your area since March of 2020?

23 A We did.

24 Q Turning your attention to R-177. Do you recognize the  
25 partner situation -- do you recognize the -- the circumstances

1 involved in R-177?

2 A This was a case that I supported -- oh, actually, this is  
3 a case that one of my peers supported. And it looks like I  
4 closed out the case. That happens sometimes when someone goes  
5 on vacation.

6 Q At what point in time in this process did you take over  
7 the case?

8 A It looks like I jumped in sometime between May 10th and  
9 May 18th of 2022.

10 Q And at that point in time, where were -- where was your  
11 department, in terms of looking into this issue?

12 A My peer, Yara Matar, had already consulted on this,  
13 gathered the information she needed, and requested that the  
14 store manager draft up a written warning for her review. So  
15 the store manager sent over the written warning. That's when  
16 it came to my attention. And I reviewed it and sent it back  
17 with a recommendation to deliver it as soon as possible.

18 Q And what was your recommendation that you ultimately  
19 provided to the store manager?

20 A A written warning.

21 Q And what was the reason why you recommend a written  
22 warning for this particular partner?

23 A Well, that's what my peer recommended. And we're  
24 consistent. But let me just go back and read through.

25 MS. STANLEY: I would object to the witness talking about

1     why the recommendation was made to issue a written warning, if  
2     her peer made the recommendation and did not resolve.

3             JUDGE ROSAS: Do you know why?

4             MS. STANLEY: Other than reading through the document, I  
5     don't.

6             THE WITNESS: Well, probably because there was either a  
7     significant amount of time and attendance that had occurred.  
8     So we felt like a written warning was a better indicator of the  
9     seriousness of the situation, or there was something more  
10    serious that happened that we needed to address with a written  
11    warning.

12            JUDGE ROSAS: Well, that's the extent of her information.

13    Q     BY MR. BALSAM: Ms. Crowley, you -- you did, in fact,  
14    close out this file?

15    A     I did.

16    Q     And did you concur with the recommendation that was made,  
17    prior to closing the file?

18    A     Absolutely.

19    Q     Why did you concur with the recommendation?

20    A     Because we calibrate as a team. And we probably had  
21    discussed this as a group.

22    Q     And with respect to the recommendation that you made with  
23    respect to this particular partner, did you apply consistent  
24    practices that you've utilized in your role since March of  
25    2020?



1 A Absolutely.

2 Q Now, turning your attention to R-178. Were you involved  
3 in the discussion with respect to this particular partner?

4 A I was. This is my case.

5 Q And what happened here?

6 A I just need to review, because I don't remember all of the  
7 cases. Looks like the manager called in. The partner was  
8 missing a significant amount of their shifts. And the manager  
9 had tried to support them, but the behavior was ongoing.

10 Q And what was the recommendation that you ultimately made  
11 with respect to this particular partner?

12 A We recommend that they open up a leave of absence on  
13 behalf of the partner, I believe. We talked about intermittent  
14 attendance. And then, we issued a -- a documented coaching to  
15 the partner. And then, the partner immediately called out  
16 again for their additional shifts. So it looks like we opened  
17 up a leave of absence on their behalf, or encouraged them to,  
18 but it was denied due to their tenure.

19 Q Why did you recommend a leave of absence for this  
20 particular partner?

21 A If a partner is unable to come to work, we have resources  
22 to support them. And we want them to use those resources.  
23 That's what they're for.

24 Q Is that typical practice that you utilize in your role,  
25 and that you've utilized in your role since March of 2020?



1 A It is.

2 Q And with respect to this particular partner, was this  
3 partner ultimately issued any type of discipline?

4 A It looks like this partner eventually abandoned their job,  
5 and then, did receive discipline when they returned to the job,  
6 but it had been a significant period of time.

7 Q And what was the reason why that partner was issued  
8 discipline upon their return to the job?

9 A Because we can't have partners that are actively on the  
10 roster that aren't working. And so we do address that if it  
11 happens, just to let the partner know that's -- that's not  
12 okay. If they're going to miss work, they have to utilize one  
13 of our resources to support it.

14 Q And is -- is placing this person, or viewing this person  
15 as having abandoned their position consistent with what you  
16 have done in the past in your role since March of 2020?

17 A Absolutely. If we -- a partner abandons their job, and we  
18 don't hear from them, then typically we'll move to separation,  
19 because there's not much else we can do. But if we hear from  
20 them, we'll certainly make every effort to bring them back to  
21 work successfully.

22 Q And with respect to the -- this partner returning to  
23 employment following this so-called job abandonment, is it  
24 consistent with your practice to impose discipline upon them on  
25 their return?

1 A Yes. If a partner abandons their job and doesn't  
2 communicate, the communication is one of the expectations of  
3 the role. So we'll issue corrective action just to indicate  
4 that that's not how we need them to handle it in the future.

5 Q And -- and what is the reason for doing that on their  
6 return to work?

7 A Because it's clear communication that it can't happen  
8 again.

9 Q Now, drawing your attention to R-179. Were you involved  
10 in the discussion involving the partner in R-179?

11 A I was. This is my case.

12 Q And what happened here?

13 A Looks like the partner called in -- oh, sorry, the manager  
14 called in about the partner. Partner have several no-call no-  
15 shows.

16 Q And what was the recommendation that you made with respect  
17 to this particular partner?

18 A It looks like we landed on a written warning.

19 Q Do you know why the -- the recommendation was a written  
20 warning?

21 A Just for consistency and fairness. This is another case  
22 that looks like it started with one of my peers. And then,  
23 they went out on leave or went out on vacation. And I took  
24 over at some point.

25 Q And did you agree with the re -- recommendation that was



1 initially made?

2 A Absolutely.

3 Q Why is that?

4 A Because it's consistent. Because we talk about it to make  
5 sure that we're consistent.

6 Q And then, turning your attention to R-181. Were you  
7 involved in the discussion with respect to this partner that is  
8 addressed in R-181?

9 A I was.

10 Q And what were the cir -- what were the circumstances of  
11 this particular situation?

12 A The store manager had lost contact with the partner. They  
13 had abandoned their job.

14 Q And what ultimately happened with respect to this  
15 particular partner?

16 A I believe this one ended in separation. It looks like we  
17 sent the job abandonment email. And then, the partner didn't  
18 respond.

19 Q What is a job abandonment email?

20 A So it's just an email that we send out to the partner to  
21 let them know that we haven't heard from them. And we'd like  
22 to discuss their employment. And it provides them with a -- a  
23 time period in order to get back to the store manager, and  
24 clearly states that if we don't hear back from them within that  
25 time period, that we'll assume that they no longer wish to work

1 at Starbucks. And we'll process their separation accordingly.

2 Q Now, in R-18 -- R-181, on the final page, is that the  
3 email that Starbucks typically sends to partners who have  
4 abandoned their position?

5 A It is.

6 MR. BALSAM: I have nothing further for this witness,  
7 Judge.

8 **CROSS-EXAMINATION**

9 Q BY MS. STANLEY: If I'm looking at -- or Ms. Crowley, I'm  
10 sorry.

11 A That's okay.

12 Q Looking at R-169.

13 A Um-hum.

14 Q If you could. If you could just look at the third page of  
15 that document.

16 A Um-hum.

17 Q At the bottom half of the page where it's under the, kind  
18 of, caller name, et cetera.

19 A Um-hum.

20 Q Where it says, "Resolution requested, XEP Consult". Is  
21 that a separation consult?

22 A It is.

23 Q T&A for time and attendance?

24 A Correct.

25 Q What does CBA store mean?

1 A It means it's a certified store.

2 Q What does that mean?

3 A It means that the Union had voted to certify that store.

4 Q Would you always note the -- a store as a CBA store in --  
5 in this kind of file?

6 A In the beginning, we did not. We didn't -- we didn't note  
7 that. And now we do note it, just to make sure that we are  
8 aware that we can provide the right level of support. Usually  
9 in a certified store, I'll ask the manager to send me the  
10 corrective action before they deliver it, because we found that  
11 although we offer training on corrective actions that are not  
12 always well written. And we just want to make sure it's really  
13 clear. Managers tend to add too many words. They love to cut  
14 and paste from the policy. And then, it gets confusing. And  
15 the partners don't even know exactly what went wrong.

16 MS. STANLEY: I don't have anything further.

17 MR. HAYES: No questions.

18 JUDGE ROSAS: Anything else?

19 MR. BALSAM: No, Judge.

20 JUDGE ROSAS: So I just have a question or two.

21 THE WITNESS: Um-hum?

22 JUDGE ROSAS: On each of these documents --

23 THE WITNESS: Um-hum?

24 JUDGE ROSAS: -- when are they considered to have been  
25 initiated on the -- the date of the initial email, which would

1 be the last one in the trail?

2 THE WITNESS: Yes. So if it's opened by our partner  
3 contact center representatives, and then, put into a queue to  
4 be addressed. And each type of situation has a service level.  
5 So if you're calling for general information, we get back to  
6 you within five business days. And if you're calling for like  
7 support, then it may be two or one business days, depending on  
8 the situation.

9 JUDGE ROSAS: So I'm looking at Respondent's 181.

10 THE WITNESS: Um-hum.

11 JUDGE ROSAS: You'd refer to this particular document  
12 as -- or request as having been initiated on July 11th?

13 THE WITNESS: Correct.

14 JUDGE ROSAS: Okay. And the other question is, there are  
15 some corrective action plans attached to some of these  
16 documents, specifically Respondent's 175 and 177 and 179.

17 THE WITNESS: Um-hum.

18 JUDGE ROSAS: But not others. Can you tell me why?

19 THE WITNESS: I'm assuming that's just what was printed  
20 off and provided to the lawyers. I mean, they're all basically  
21 the same. We start by reviewing what policy was violated. We  
22 talk about the conversations that have already taken place. So  
23 if we've reviewed the policy with you, we include that date.  
24 If you've already received corrective action, we'll include  
25 that. And then, we talk about what happened. We usually

1 bullet that and say, like, on July, you know, 14th, for  
2 example, the partner was 30 minutes late for work. And then,  
3 we say the time and attendance policy can be found in the  
4 partner guide in the general policies and standard section.

5 JUDGE ROSAS: But you don't generally keep corrective  
6 action plans as part of your records?

7 THE WITNESS: They're attached to the file in an  
8 attachment. But if you were to print the file off, you would  
9 print it. The attachment wouldn't automatically get printed.

10 JUDGE ROSAS: Okay.

11 THE WITNESS: And this is a system that we use  
12 electronically. It's unusual for me to see anything printed.

13 JUDGE ROSAS: Okay. Anything else?

14 MR. BALSAM: No, Judge.

15 JUDGE ROSAS: Okay. Thank you. Your testimony --

16 THE WITNESS: Thank you.

17 JUDGE ROSAS: -- is concluded. Do not discuss your  
18 testimony with anyone, until counsel advise you otherwise, all  
19 right?

20 THE WITNESS: Okay. No worries. Do I just leave this  
21 here?

22 JUDGE ROSAS: Yes. Thank you.

23 THE WITNESS: Okay.

24 MR. BALSAM: Judge, can we have 15 minutes, so we can get  
25 our other witness?



1 JUDGE ROSAS: Sure.

2 (Off the record at 10:46 a.m.)

3 JUDGE ROSAS: Okay. Respondent, next witness?

4 MR. BALSAM: Respondent calls Nick Tobias.

5 JUDGE ROSAS: Raise your right hand, please.

6 Whereupon,

7 **NICHOLAS TOBIAS**

8 having been duly sworn, was called as a witness herein and was  
9 examined and testified, telephonically as follows:

10 JUDGE ROSAS: All right. And state and spell your name  
11 and provide us with an address.

12 THE WITNESS: Nicholas Tobias, N-I-C-H-O-L-A-S,  
13 T-O-B-I-A-S. Address 307 7th Avenue, New York, New York.

14 **DIRECT EXAMINATION**

15 Q BY MR. BALSAM: Good morning, Mr. Tobias. How are you?

16 A I'm well. Thanks. How are you?

17 Q Where do you currently work?

18 A Starbucks Coffee Company.

19 Q How long have you been -- how long have you been employed  
20 by Starbucks Coffee Company?

21 A 11 years.

22 Q What was the first position you held with Starbucks Coffee  
23 Company?

24 A Barista.

25 Q Where were you a barista?



- 1 A San Diego, California.
- 2 Q And how long were you a barista in San Diego, California?
- 3 A Six months.
- 4 Q What was the next position you held with Starbucks?
- 5 A Shift supervisor.
- 6 Q And where were you a shift supervisor?
- 7 A San Diego, California.
- 8 Q How long were you a shift supervisor for?
- 9 A A year.
- 10 Q And after holding your position of shift supervisor, what
- 11 was the next position you held with Starbucks?
- 12 A Assistant store manager.
- 13 Q Where were you an assistant store manager?
- 14 A Riverbank, California.
- 15 Q And how long did you hold the position of assistant store
- 16 manager?
- 17 A Five months.
- 18 Q And after that five months, what was the next position you
- 19 held with Starbucks?
- 20 A Store manager.
- 21 Q Where were you a store manager?
- 22 A Both in California and Washington, DC.
- 23 Q When did you arrive in the DC market to become a store
- 24 manager?
- 25 A In January 2014.

1 Q And how long were you a store manager in Washington, DC?

2 A Two-and-a-half years.

3 Q And after that two-and-a-half years as a store manager in  
4 Washington, DC, what was the next position you held with  
5 Starbucks?

6 A District manager.

7 Q Where were you a district manager?

8 A Both Washington, DC and New York City.

9 Q How long were you a district manager in Washington, DC?

10 A Three years.

11 Q And then, how long were you a district manager in New  
12 York?

13 A Two years.

14 Q After holding the position of district manager in New  
15 York, what was the next position you held with Starbucks?

16 A Senior partner relations associate.

17 Q Is that the position you currently hold?

18 A Yes.

19 Q And what does a senior partner relations associate do?

20 A We are consultants on employee relations matters when it  
21 comes to workplace concerns and performance management.

22 Q And how do those issues come to your attention in -- in  
23 the -- your department?

24 A They're called in through our partner contact center.

25 Q And who calls in those types of concerns through the



1 partner contact center?

2 A Either an employee with a concern or a store manager with  
3 performance guidance management questions.

4 Q In your role as a senior partner relations associate, are  
5 you assigned to a particular region?

6 A Yes. I handle the east coast of the U.S.

7 Q And does that go from Florida, all the way up to Maine?

8 A Yes, and the east coast of Canada as well.

9 Q And who do you report to?

10 A Melanie Keen.

11 Q And what is Melanie Keen's title?

12 A Partner relations manager.

13 Q In your role as a senior partner relations associate, are  
14 you involved in partner discipline?

15 A Yes.

16 Q How are you involved in partner discipline?

17 A I provide contul -- consultation to managers, based off of  
18 the case that's being called in to us and provide --

19 Q And when you say you provide consultation to managers,  
20 what does that entail?

21 A We review the -- the violation of policy or standard. And  
22 we provide recommendation based off of consistent practice  
23 across retail North America.

24 Q And how do you know that you're applying consistent  
25 practice across North America, when you're presented with a --

1 a dis -- a disciplinary issue for a partner?

2 A We calibrate across our team. And we also use our case  
3 management system to look for corresponding cases that have  
4 delivered corrective action in the past.

5 Q You use the word calibrate, what does that mean?

6 A We discuss amongst each other similar cases to ensure that  
7 we're applying consistent practice of recommended corrective  
8 action or discipline.

9 Q And -- and then, you mentioned a "case management system."

10 A Um-hum.

11 Q What is that case management system?

12 A It's called Roast (phonetic throughout), but it's our  
13 management -- it -- it's where the cases are called in and  
14 opened to us, and then, assigned to us to contact the employee.

15 Q Now, in using Roast, what information would you have  
16 access to in that database?

17 A Employees' partner history that's been called into us, any  
18 of the other cases inside that store, the data for that  
19 employee and the manager.

20 Q And looking at Rose, would you be able to determine  
21 whether or not a particular partner was issued a corrective  
22 action notice?

23 A If it had been called into our team before.

24 Q Now, in your role, how often are you involved in  
25 disciplinary activity for partners?

1 A Every day.

2 Q Is that your -- your assessment the primary purpose of  
3 your department and your role?

4 A Yes.

5 Q Other than disciplinary issues, what else does your  
6 department do?

7 A Workplace concerns.

8 Q And what would those be?

9 A If the employee has a concern about their store, their  
10 store conditions, their leader, or the company, they can call  
11 in and we can support with investigation.

12 Q Now, with respect to discipline, who typically calls in  
13 for consult to you?

14 A The store manager.

15 Q Do district managers ever call in?

16 A Yes.

17 Q Is it common for store managers and district managers to  
18 contact your department for a consult with respect to a  
19 discipline?

20 A Yes.

21 Q Now, you mentioned Calibration case management system.  
22 Have you ever heard of something called "virtual coach"?

23 A Yes.

24 Q What is that?

25 A The virtual coach is a tool that we provide to store



1 managers and leaders in the retail business with consistent  
2 recommendation for performance management.

3 Q So how does that work?

4 A A store manager, a district manager would go to the  
5 virtual coach, find the subject they're looking for guidance  
6 on, and not -- like, read the recommendation based off of their  
7 current situation.

8 Q And then, once the store manager -- is there an obligation  
9 for a store manager or a district manager to utilize the  
10 virtual coach prior to contacting your department?

11 A Yes.

12 Q Is there -- what is the reason for that?

13 A To ensure that they have leveraged the resource they have  
14 available to them because the virtual coach was created by our  
15 team with consistent recommendations.

16 Q In front of you is a big stack of paper. I want to draw  
17 your attention to a document that's been marked as R-182.

18 A Uh-huh.

19 Q Mr. Tobias, do you recognize R-182?

20 A Yes.

21 Q What is it?

22 A This is how to access a partner relations virtual coach.

23 Q And who has access to this particular document?

24 A Store managers and above.

25 Q And how do they have access to this?



1 A Through the Partner Hub.

2 Q Now, Mr. Tobias, in looking at R-182, is this -- has this  
3 document been in place prior to August 5th, 2021?

4 A Yes.

5 Q To your knowledge, is this document still in existence  
6 today?

7 A Yes.

8 MR. BALSAM: Judge, I move into evidence R-182.

9 MS. STANLEY: Again, Your Honor, my only objection is  
10 illegibility, especially on pages 4 and 5, but on the last page  
11 I just --

12 MR. BALSAM: Judge, we'll do our best to see if we can get  
13 a replacement copy for those if that's the only objection.

14 JUDGE ROSAS: You get dizzy trying to read this thing.

15 MR. BALSAM: Judge, to avoid you getting dizzy, I'm happy  
16 to try to track down a more legible copy and replace it, again,  
17 assuming that is the only objection to this document.

18 MS. STANLEY: That's my only objection.

19 MR. HAYES: I have a brief voir dire, Your Honor.

20 JUDGE ROSAS: Go ahead Charging Party.

21 **VOIR DIRE EXAMINATION**

22 Q BY MR. HAYES: Mr. Tobias, so -- over here -- this  
23 document doesn't show every possible selection or outcome  
24 that's part of the virtual coach tool; is that right?

25 A Yes.



1 Q It just has this series of examples?

2 A Correct.

3 MR. HAYES: Okay, nothing further. I'm -- our only  
4 objection is also to the illegibility.

5 JUDGE ROSAS: All right, well, I'll receive it as is, and  
6 to the extent that the Respondent's going to want this to  
7 really have significant weight with respect to the process, it  
8 needs to be understood, so --

9 MR. BALSAM: I -- I intend to do that, Judge, and I also  
10 intend to ask the witness additional questions about the  
11 document --

12 JUDGE ROSAS: Okay.

13 MR. BALSAM: -- to help better explain.

14 JUDGE ROSAS: Respondent's 182 is received.

15 **(Respondent Exhibit Number 182 Received into Evidence)**

16 MR. BALSAM: Thank you.

17 **RESUMED DIRECT EXAMINATION**

18 Q BY MR. BALSAM: Mr. Tobias, looking at R-182, which is  
19 in -- introduced into evidence, if you turn to the -- the back  
20 of the second page where it says scenario 1, attendance and  
21 defined outcome --

22 A Uh-huh.

23 Q -- when a store manager or a district manager ac --  
24 accesses the virtual coach, the counsel for the Union asked you  
25 a question about scenarios.

1 A Uh-huh.

2 Q In this particular scenario with respect to attendance  
3 with defined outcomes, what is the process that a store manager  
4 or manager would use -- a district manager or store manager  
5 would use to sort of figure out what the potential outcomes are  
6 on an attendance issue like this?

7 A So they would select attendance and punctuality, and  
8 there's, I think, six dropdowns of different types of  
9 attendance violations, and then they would select the one that  
10 is relevant to their current situation and follow the prompts.

11 Q So now, looking at the third page of R-182 where it says  
12 attendance and punctuality, and below it and says tardiness, is  
13 it your testimony that because the store manager and manager  
14 picked out -- sorry -- store manager or district manager  
15 checked tardiness, this would be the next screen that they  
16 would see?

17 A Yeah -- well, yes.

18 Q And then below that, there's a series of questions that  
19 the store manager and/or district manager would have to answer  
20 to get to the next page?

21 A Correct.

22 Q Now, tur -- turning to the back of page 3 where it says  
23 scenario 2, attendance with extenuating circumstances, and then  
24 it says attendance and punctuality irregular attendance --

25 A Uh-huh.

1 Q How does a store manager and/or manager -- and/or district  
2 manager get to that particular page?

3 A If they have selected has the partner missed more than  
4 three consecutive shifts due to illness or emergency and select  
5 "no", and then if the partner has mentioned an inability to  
6 comply with Starbucks attendance policy due to religious or  
7 medical reasons, and they have selected "yes".

8 Q Okay. So your testimony is based on what the store  
9 manager and/or your manager -- a district manager selects, and  
10 that prompts them to a different page, which then gives them  
11 additional questions and prompts, correct?

12 A Correct. Correct.

13 Q And at the end of completing this virtual coach, is there  
14 a recommendation that's provided to that store manager and/or  
15 district manager?

16 A Yes.

17 Q Do store managers and/or district managers have to adhere  
18 to the recommendation of the virtual coach?

19 A No.

20 Q Now, what if -- what happens -- what, if anything, happens  
21 if they decide not to push -- agree with what their virtual  
22 coach recommends?

23 A They would either call their next, you know, level leader  
24 or call partner relations.

25 Q So in your experience, if a store manager and/or district

1 manager received a recommendation that they did not want to  
2 comply with, is it their obligation, therefore, to go either to  
3 your department or to someone else to have a consult?

4 A No.

5 Q What is the practice?

6 A The store managers are empowered to deliver document --  
7 documentation that they feel is the most appropriate, and if  
8 they choose not to follow this recommendation or speak to their  
9 leader, they would deliver the documentation.

10 Q Okay. Would there ever come a time where you become aware  
11 of a situation where a store manager and/or a district manager  
12 did not adhere to their recommendation of virtual coach?

13 A Yes.

14 Q Under what circumstances would you become more of a --

15 A We have a process through our team to review disputes to  
16 corrective actions and separations.

17 Q And so if a partner was issued a disciplinary action that  
18 they did not agree with, there is a mechanism in place to  
19 dispute that?

20 A Yes.

21 Q What is that process?

22 A They would call the partner contact center and open a case  
23 with partner relations.

24 Q And you, being in partner relations, you would have the  
25 obligation to investigate that dispute?

1 A Yes.

2 Q Mr. Tobias, are you aware of a term called "level  
3 setting"?

4 A Yes.

5 Q What is that?

6 A Level setting is when we discover that a store or market  
7 is not in compliance with our policies and standards, and we  
8 review those policies and standards with all of the employees  
9 before beginning to enforce the policies with discipline.

10 Q Now, in your years as a senior partner relations  
11 associate, have you come to learn of markets that were not  
12 appearing to certain policies and procedures where a level set  
13 was required?

14 A Yes.

15 Q Where did that occur?

16 A It just happened in several cities across the East Coast.

17 Q Which cities?

18 A I know Buffalo, Leesburg, Virginia, Atlanta, Maryland, off  
19 the top of my head.

20 Q Did these level-setting meetings occur prior to August of  
21 2021 in those other cities outside of Buffalo?

22 A Yes.

23 Q And you mentioned Buffalo. Do you know when a level  
24 setting occurred in the Buffalo market?

25 A I believe between August and September of 2021.

1 Q And why did a level setting occur in the Buffalo market  
2 between September -- I'm sorry -- in the fall of 2021?

3 A The local leaders identified that these policies that for  
4 Starbucks were not being enforced consistently across the  
5 market.

6 Q To your knowledge, what policies and procedures were  
7 discussed during that level setting in the Buffalo market?

8 A Attendance and punctuality, dress code, and then how we  
9 communicate, which is in mostly relation to profanity in the  
10 workplace.

11 Q Why were those three policies discussed in the Buffalo  
12 market during the level-setting meetings?

13 A They were the most egregiously not cons -- not followed.

14 MR. BALSAM: So Judge, I don't know if the witness will  
15 stay here for this, but I've had previous conversations with  
16 the counsel for the General Counsel, so maybe we can take a  
17 moment to let the witness step out to talk about documents and  
18 introduction.

19 JUDGE ROSAS: Is this worth discussing?

20 MS. STANLEY: I -- I -- I think so.

21 JUDGE ROSAS: Okay.

22 THE WITNESS: Say again?

23 JUDGE ROSAS: If you could have a seat outside? We're  
24 going to let you know.

25 UNIDENTIFIED SPEAKER: We'll come get you when it's time

1 UNIDENTIFIED SPEAKER: All right.

2 UNIDENTIFIED SPEAKER: Thanks, sir.

3 MR. BALSAM: Judge, pursuant to what we discussed with the  
4 last witness, this -- the intent with this particular witness  
5 is to introduce a whole host of corrective action forms for  
6 purpose and comparator evidence. This witness will testify for  
7 foundation that he has access to these records upon request,  
8 these documents that are -- I'm about to ask for its  
9 introduction into evidence were maintained in the ordinary  
10 course of business, and again, for those reasons, rather than  
11 going through each one to discuss about the circumstances of  
12 these documents, these are directly related to the allegations  
13 in the complaint. It shows some of the discriminatees  
14 themselves prior discipline that they received before the Union  
15 campaign started, but more importantly, other in -- individuals  
16 within this market and also outside this market, for example,  
17 in Syracuse and Ithaca, where again, it's the same region where  
18 a similar discipline was imposed during various time frames,  
19 both before the -- the campaign started and during the  
20 campaign, and so I've provided the counsel for the General  
21 Counsel advanced copies of these documents.

22 I understand that there's potentially some objections to  
23 that, but my purpose and my objective here is to get all of  
24 these in as comparator documents. Again, they're all signed.  
25 They are signed by the manager. They're signed by the partner.

1 And for those reasons, I don't see why there would be an  
2 objection, but -- and we've provided them as part of this -- in  
3 response to the subpoena.

4 MS. STANLEY: Sure. I mean, there -- it goes from  
5 Respondent 183, I believe, to Respondent 284, so I --

6 JUDGE ROSAS: With some missing in between, right?

7 MS. STANLEY: There are some --

8 MR. BALSAM: Judge --

9 MS. STANLEY: -- missing in between, yeah.

10 MR. BALSAM: Yeah, Judge, so yesterday, upon discussions  
11 with counsel for the General Counsel, we were attempting to  
12 also introduce documents that did not have full signatures, and  
13 for a variety of reasons that sometimes happens, but to  
14 streamline the process and to try to avoid a -- a dispute, we  
15 removed those, which is why there's not a consistent count from  
16 182 all the way to 285.

17 MS. STANLEY: So a couple of issues, I think, and -- and  
18 Respondent counsel did let me know which were pulled. There  
19 are a couple more that I -- that I see flipping through that  
20 don't have a -- a partner signature, but they do have other  
21 signatures.

22 Primarily, though, my issues are, A, as I said in relation  
23 to, I think, a few exhibits ago, many of them are postdate the  
24 organizing activity and so, as you said, I can make the  
25 argument in brief, but -- about the weight to give it. Beyond



1     that, though, many of them are not comparative because they  
2     relate to disciplines completely different than anything  
3     alleged as unlawful in the complaint.  Some of them -- the  
4     first few -- first dozen or so were all -- all relate to  
5     employees who not only already testified on the General  
6     Counsel's case and were here to -- to authenticate these, but  
7     also were named in the complaint, so there should've been  
8     plenty of notice for Respondent to have these ready for them.

9           JUDGE ROSAS:  Hold on --

10          MS. STANLEY:  The --

11          JUDGE ROSAS:  -- before you leave that point.

12          MS. STANLEY:  Sure.

13          JUDGE ROSAS:  So the first one I'm looking at is R-183 for  
14     Danny Rojas.

15          MS. STANLEY:  That's right.

16          JUDGE ROSAS:  So he testified -- and this is a corrective  
17     action form for Danny Rojas, and what you're saying is that he  
18     was not asked about this document?

19          MS. STANLEY:  That's correct.

20          MR. BALSAM:  Mr. Rojas also, Judge, now have also  
21     testified to my recollection that he never had prior  
22     discipline.  This is --

23          JUDGE ROSAS:  But this had been produced in -- pursuant to  
24     subpoena.

25          MR. BALSAM:  Correct.  Every document here, Judge, has

1     been produced to the counsel for the General Counsel in  
2     response to subpoenas. They're all business records. They are  
3     all signed except for -- again, there may be one or two that  
4     doesn't have a partner signature, but as this witness will  
5     testify to, to the extent that it's necessary -- I think you've  
6     already heard it from another witness -- sometimes partners  
7     refuse to sign, but that doesn't invalidate the authenticity  
8     and the -- the fact that these are, in fact, business records  
9     maintained in the order -- ordinary course.

10           JUDGE ROSAS: Okay, yeah, finish -- finish your  
11     objections.

12           MS. STANLEY: Sure, so beyond the fact that many of them  
13     in the -- in the -- the beginning ones are related to employees  
14     who testified on the General Counsel case and remained in the  
15     complaint, some of them are signed by supervisors that  
16     Respondent has already had testify, including people from  
17     yesterday, who I think would've been more appropriate to  
18     authenticate them.

19           One of them, I think, 211, I believe, is already in  
20     evidence as General Counsel Exhibit 169, but I will double-  
21     check that. I just -- I think that that's correct. And then  
22     some of them -- like I said before, some of them I don't  
23     believe are -- are adequate comparators because they aren't the  
24     same disciplines. They're not the same things, so I don't see  
25     why they would be relevant.

1 MR. HAYES: Same objections.

2 JUDGE ROSAS: Anything you want to add to that?

3 MR. BALSAM: Yeah, no, Judge, I think that from my  
4 perspective and with respect to these particular documents,  
5 certainly to the extent that there are discriminatees who have  
6 said that they were not disciplined, clearly that was not the  
7 case. They were disciplined prior to the commencement of the  
8 organizing campaign, so these documents reflect that.

9 With respect to other individuals in -- in here, the fact  
10 that there were discipline being imposed in this market to --  
11 for example, stores that were never unionized, no petitions  
12 were filed, where it's shown consistent discipline that was  
13 applied to them, from my perspective and Starbucks perspective,  
14 it invalidates the argument here that we were targeting Union  
15 supporters for time and attendance, dress code violations when  
16 there were plenty of other people who are not active vocal  
17 Union supporters who also received similar discipline.

18 Also, to the extent that there are individuals outside of  
19 the Buffalo market but in New York, which is where some of  
20 these documents are, that's part of the reason that the  
21 witnesses have testified to. They'll -- we'll pull it to  
22 Deanna Pusatier, so it's the same -- same ultimate close in --  
23 within this region so they would be, I think, valid  
24 comparators.

25 Again, none of the -- none of the things I've heard,



1     though, from the counsel for the General Counsel invalidates  
2     the -- the argument here that these are, in fact, business  
3     records maintained in the ordinary course of business, and  
4     again, similar to what the counsel for the General Counsel did,  
5     I think, last week or the week before, they basically took  
6     corrective action forms, and Your -- Your Honor allowed that  
7     into evidence despite the fact that no one testified about it.  
8     We have a opposing -- said that these are actually Starbucks  
9     business records. We produced them to the counsel for the  
10    General Counsel, and I don't see any reason why they should not  
11    be introduced into evidence for that reason.

12           JUDGE ROSAS: Well, that's their prerogative on their  
13    case --

14           MR. BALSAM: Understood.

15           JUDGE ROSAS: -- based on your telling them that they're  
16    business records, so I have to go with that, but when it comes  
17    to you, you have to establish that. Now --

18           MS. STANLEY: Can I just say one more thing, Your Honor?  
19    I'm sorry, I didn't mean to interrupt. I -- I do want to say I  
20    don't have an issue with every single one of these. There are  
21    some in here that I will have no objection to, but the other  
22    point in response to Respondent's statement about kind of  
23    geographic range that these cover, the complaint covers Buffalo  
24    area stores and one specific store in Rochester. It doesn't  
25    cover all of Upstate New York or even all of Western New York,

1     so to the extent that there are disciplines from -- like, I  
2     think the first one for Danny Rojas is from his store in  
3     California. I don't think that -- I don't think that's  
4     included in the territory, and I think things in Ithaca that  
5     are not relevant to this complaint or other -- elsewhere in New  
6     York other than the Buffalo area stores and Rochester, I don't  
7     think would be relevant either.

8           JUDGE ROSAS: All right. Before we go further, let me  
9     just, I guess, try to start with some common denominators here.  
10    What do we need this witness for?

11           MR. BALSAM: Thi -- this witne --

12           JUDGE ROSAS: Do we need him -- if -- if he testifies to  
13    the foundation of these documents, what's he going to say?

14           MR. BALSAM: Judge, this witness is -- other than  
15    testifying about what he just testified to in his role, this  
16    witness' purpose is, in the event that Your Honor was going to  
17    require witness testimony to corroborate that these are, in  
18    fact, Starbucks business records that are maintained in the  
19    ordinary course, he will testify to that effect based on the  
20    fact that he would have access and would be able to request  
21    them. He -- we were -- clearly requested them. We have them.  
22    We've produced them, and so he would authenticate these as  
23    business records of Starbucks.

24           Beyond that, this witness does not serve a purpose, but  
25    again, because we wanted to ensure that we didn't have an

1 issue, if Your Honor would not allow these to be introduced in  
2 the way that the counsel for the General Counsel did, that's  
3 why we called this witness to, again, build a foundation but  
4 also to introduce these documents.

5 JUDGE ROSAS: Do -- do you know if he signed any of these?

6 MR. BALSAM: No, and he wouldn't, Judge. As -- as the  
7 last witness testified to and this witness will testify to, as  
8 well, recommendations are made to store managers, district  
9 managers. It's up to those store managers and district  
10 managers to come in and sign those documents and deliver them.  
11 It would be, to be quite honest, Judge, I think a waste of the  
12 Court's resources for us to parade every single manager that  
13 has been involved in every single one of these disciplines to  
14 come in to talk about the particular circumstances because the  
15 document itself speaks to the discipline and what was act --  
16 what actually occurred and what was delivered to the partner.

17 JUDGE ROSAS: Anything else, General Counsel?

18 MS. STANLEY: No, Your Honor. I think that covers my  
19 objections.

20 JUDGE ROSAS: Well, I think we can go through them, if we  
21 need to, one by one, but I don't know that we need the witness.  
22 We can do that on the record, but I'm just trying to understand  
23 what we need him here for as we go through them. Is there  
24 anything that would need to be explained with respect to any of  
25 them?

1           MR. BALSAM: Judge, again, as I mentioned before, no. The  
2 witness is here in the event that Your -- Your Honor required  
3 us to go in one by one to authenticate each document one by  
4 one, but given the discussions and the statements that I'm  
5 hearing from the counsel from -- for the General Counsel, and  
6 it seems like what Your -- Your Honor is inclined to do is to  
7 allow these documents into evidence as business records. If  
8 that's the case, then this witness does not have any more  
9 purpose other than to say that these are documents that are  
10 maintained in the ordinary course of business.

11           JUDGE ROSAS: Well, let's -- let's do this. Let's get him  
12 in here to establish that. If that's the case, then what I'm  
13 going to ask is that he be excused and wait outside until we  
14 get through all of them, arguing about any or all of them on  
15 the record, and then see if there's any reason to call him back  
16 in for anything --

17           MR. BALSAM: That's fair.

18           JUDGE ROSAS: -- under the category of, like, that Lotto  
19 expression: hey, you never know.

20           MR. BALSAM: That's right.

21           JUDGE ROSAS: Okay. Let's -- let's take care of him and  
22 then we can take five.

23           MR. BALSAM: Judge, do -- sorry. I -- I don't know. Does  
24 it make sense for me to have a conversation with the counsel  
25 for the General Counsel to find out which particular corrective

1 action forms they have --

2 JUDGE ROSAS: We'll go through them.

3 MR. BALSAM: Okay.

4 JUDGE ROSAS: We'll go through them.

5 MR. BALSAM: Okay.

6 JUDGE ROSAS: So I warn you, sir, you are in -- in line  
7 for a -- an extensive course of torturous examination now.

8 Go ahead, Counsel.

9 MR. BALSAM: Thank you.

10 **RESUMED DIRECT EXAMINATION**

11 Q BY MR. BALSAM: Mr. Tobias, in front of you are several  
12 corrective action forms; do you see those?

13 A Yes.

14 Q Have you had an opportunity to review these corrective  
15 action forms prior to your presence here in court today?

16 A Yes.

17 Q And where are these cor -- corrective action forms stored  
18 at Starbucks?

19 A At the store.

20 Q And if -- in your job at Starbucks, are you able to have  
21 access to these corrective action forms?

22 A Yes.

23 Q And what would -- what do you do in the event that you  
24 need to access these corrective action forms?

25 A We would work with the store manager and district manager



1 to receive a copy.

2 Q Okay. Now, in looking at these -- these documents --

3 MR. BALSAM: Judge, do you want me to go one by one  
4 listing the numbers or just generally?

5 JUDGE ROSAS: No. No, just to basically provide a  
6 foundation.

7 MR. BALSAM: Understood.

8 Q BY MR. BALSAM: In -- in looking at these documents, Mr.  
9 Tobias, are these corrective action forms in the form that  
10 Starbucks utilized as -- as your corrective action forms?

11 A Yes.

12 Q Are corrective action forms that are maintained in  
13 Starbucks typically signed by the issuing store manager or  
14 district manager?

15 A Yes.

16 Q And then, in the situation where it's delivered to a  
17 partner, do the partners sign those documents?

18 A Yes, they have the option to sign.

19 Q It -- are there situations in which a partner would not  
20 sign those documents?

21 A Yes.

22 Q And even if a partner did not sign a document, would that  
23 document still be maintained in the personnel file for that  
24 particular partner?

25 A Yes.

1 Q And that's maintained by Starbucks in the ordinary course  
2 of business?

3 A Yes.

4 Q From your review of these corrective action forms, do you  
5 have any reason to believe that they are not authentic  
6 corrective action forms that were issued to these particular  
7 partners?

8 A No.

9 MR. BALSAM: Judge, based on that foundation, I'd like to  
10 move into evidence all of these exhibits with the exception  
11 of -- all -- all the exhibits in your presence, and I can go  
12 through the numbers.

13 JUDGE ROSAS: Okay, we'll -- we'll deal with that.

14 MR. BALSAM: Okay.

15 JUDGE ROSAS: I'm going to excuse the witness, but I just  
16 had one question before we leave you because we may not hear  
17 from you again.

18 THE WITNESS: Okay.

19 JUDGE ROSAS: There's a distinction between U.S. English  
20 and Canadian English according to the second page of that --

21 THE WITNESS: Yes.

22 JUDGE ROSAS: -- tool? I didn't know that. Okay --

23 MS. STANLEY: I just had --

24 JUDGE ROSAS: -- thank you.

25 MS. STANLEY: -- I'm sorry, Your Honor. I just had -- can

1 I do a very quick voir dire on just a couple of these?

2 JUDGE ROSAS: Go ahead.

3 **VOIR DIRE EXAMINATION**

4 Q BY MS. STANLEY: Mr. Tobias, can you look at -- flip  
5 through until you get to Respondent 230?

6 JUDGE ROSAS: Like I said, we can call him in.

7 MS. STANLEY: Oh, okay. Okay, yeah. Yeah, that's fine  
8 then.

9 JUDGE ROSAS: Yeah, I mean --

10 MS. STANLEY: Then I won't.

11 JUDGE ROSAS: -- you want to wait?

12 MS. STANLEY: Just --

13 JUDGE ROSAS: No, but ask him now. Maybe that's the only  
14 one you have.

15 MS. STANLEY: Okay.

16 Q BY MS. STANLEY: Let me know when you get there.

17 A Yep.

18 Q Okay. Is this a photograph to your knowledge of -- of a  
19 discipline form?

20 A Yes.

21 Q And is that how they're typically maintained?

22 A No.

23 Q Do you know why it's a photograph instead of the actual  
24 document?

25 A Because this is the signed copy from the store.

1 Q And would that be the same for the following page 231?

2 A Yes.

3 Q And the following page 232?

4 A Yes.

5 Q So sometimes the signed copy ends up being photographed  
6 and that's what's uploaded into the system?

7 A Yes.

8 MS. STANLEY: Okay, I don't have anything other than that  
9 and as far as --

10 JUDGE ROSAS: Okay.

11 THE WITNESS: And then --

12 JUDGE ROSAS: All right, we'll -- yeah.

13 THE WITNESS: -- for your Canadian, it's just because the  
14 U.S. and Canada are different rules, and so it's Canadian  
15 English versus Canadian French, so not a distinguish (sic) on  
16 the U.S. English versus Canadian --

17 JUDGE ROSAS: I see.

18 THE WITNESS: -- English.

19 MR. BALSAM: Just sit outside --

20 JUDGE ROSAS: So let's deal with 183. I believe there was  
21 an objection that this discipline to Mr. Rojas was not brought  
22 to his attention when he testified and it was generated in  
23 California?

24 MS. STANLEY: That's correct. That's my understanding,  
25 Your Honor.

1 JUDGE ROSAS: And that's the basis of your objection?

2 MS. STANLEY: Yes.

3 MR. BALSAM: Are you ready for me, Judge?

4 JUDGE ROSAS: Sure.

5 MR. BALSAM: A few things. One, the counsel for the  
6 General Counsel doesn't provide Starbucks with advanced notice  
7 of who's being called when, and so it would've been impossible  
8 for us to have been ready to provide this to that witness at  
9 the time. If you want to have that witness recalled to talk  
10 about this particular document, we can do that. I think that  
11 that would be unnecessary because this has been authenticated  
12 as a document that's maintained in the ordinary course of  
13 business. Well, that's first.

14 Second, the fact that this document may have been  
15 generated prior to this particular partner's arrival in the  
16 Buffalo market is absolutely irrelevant. It goes to show a  
17 pattern of this particular partner receiving discipline, and  
18 therefore, it is relevant to this situation, as you've heard  
19 from these other witnesses about how -- when decisions with  
20 respect to discipline are being discussed, history and  
21 knowledge of policies and procedures are considered, and so in  
22 this particular situation, it -- it's reflective and shows that  
23 this particular partner has had a history of corrective actions  
24 prior to the time in which he was ultimately separated from  
25 employment with Starbucks.

1 MS. STANLEY: Your Honor, I would just note that, in  
2 addition to Mr. Rojas, each of the -- each of the disciplines  
3 with which my issue is partly that the -- the employees is a  
4 discriminatee named in the complaint. In the first -- the  
5 first complaint issued in May, we started in July. These  
6 people testified in late July into August. I think Respondent  
7 would've had time to familiarize itself with the complaint and  
8 have documents for those witnesses prepared in advance.

9 MR. BALSAM: I -- I still don't think that matters, Judge,  
10 to be quite honest. Again, this is a document that's  
11 maintained in the ordinary course of business. The fact that  
12 it was not presented to this witness on the day that he  
13 testified here certainly doesn't matter. He shows consistent  
14 practices and shows that this partner consistent with the  
15 testimony here. That would've been considered as part of this  
16 process to determine whether appropriate discipline was  
17 warranted and which, obviously, as you know as you read in the  
18 complaint and from the testimony that this partner was  
19 ultimately separated.

20 JUDGE ROSAS: Well, I'm going to overrule the objection,  
21 Counsel. I think the important thing here is what the record  
22 will show was taken into account by the Respondent in arriving  
23 at its decision regardless of whatever happened in 2019, 2021,  
24 or any other time for that matter, so I'm going to overrule the  
25 objection and receive Respondent's 183.

1       **(Respondent Exhibit Number 183 Received into Evidence)**

2           JUDGE ROSAS: 184.

3           MS. STANLEY: My only objections to 184 through 189 are  
4       that the witness was here and testified on the General  
5       Counsel's case and should've been confronted with these at that  
6       time.

7           MR. BALSAM: Same response as before, Judge. From  
8       Respondent's perspective, I don't think that really matters.  
9       Again, these are authentic documents that have been  
10      corroborated as Starbucks business records. It shows a pattern  
11      of discipline. These show that these partners were, in fact,  
12      disciplined, were aware of certain policies and procedures. It  
13      goes directly to Starbucks' defenses in this case.

14          JUDGE ROSAS: And these are corrective actions that  
15      precede corrective action that was addressed during the  
16      testimony; is that right?

17          MR. BALSAM: Correct, Judge, and -- and again, to -- to  
18      the point of this case, you know, when you have certain  
19      discriminatees and certain individuals who are identified in  
20      the complaint saying that they were not aware of Starbucks  
21      policies and procedures or that Starbucks never disciplined  
22      people for these things, then all of a sudden a campaign starts  
23      and we start disciplining people, these go directly contrary to  
24      that and refute those allegations.

25          JUDGE ROSAS: Again, I'll note that the relevance here

1 relates to not just perhaps the testimony but what is factored  
2 into the decision-making of the Respondent at the time that  
3 these subsequent corrective action was taken was any of this  
4 factored in on their part, so I'm going to receive 184 through  
5 189 on that base -- 187 -- you said 187, 189?

6 MS. STANLEY: Oh, 189, Judge.

7 JUDGE ROSAS: So 184 through 189. On that basis, overrule  
8 the objection.

9 **(Respondent Exhibit Numbers 184 through 189 Received into**  
10 **Evidence)**

11 JUDGE ROSAS: 190.

12 MS. STANLEY: My objection to 190 is only that it's not  
13 comparative because the discipline is not something that is  
14 alleged in the complaint as any kind of unlawful discipline.

15 JUDGE ROSAS: Respondent?

16 MR. BALSAM: So we have -- since the testimony about COVID  
17 protocols in place, this relates to a partner not wearing a  
18 mask dur --

19 MS. STANLEY: It relates to a partner failing to coach  
20 someone for not wearing a mask.

21 MR. BALSAM: Right, and that's in issue here in this case.

22 JUDGE ROSAS: Overruled. Respondent's 190 is received.

23 **(Respondent Exhibit Number 190 Received into Evidence)**

24 JUDGE ROSAS: 191?

25 MS. STANLEY: No objection.



1 JUDGE ROSAS: Respondent 191 is received.

2 **(Respondent Exhibit Number 191 Received into Evidence)**

3 JUDGE ROSAS: 192.

4 MS. STANLEY: I have no objection to 192, 193, or 194.

5 MR. HAYES: No objections.

6 JUDGE ROSAS: Respondent 192 through 194 are received.

7 **(Respondent Exhibit Numbers 192 through 194 Received into**  
8 **Evidence)**

9 JUDGE ROSAS: 195 through 197 relate to Ms. Dra -- Dragic.

10 MS. STANLEY: The only objection again going forward is --  
11 is that she was here. She testified. She could've been  
12 confronted. Other than that, I don't have an objection to  
13 these.

14 JUDGE ROSAS: Overruled. Respondent's 195 through 197 are  
15 received.

16 **(Respondent Exhibit Numbers 195 through 197 Received into**  
17 **Evidence)**

18 JUDGE ROSAS: 198.

19 MS. STANLEY: No objection.

20 MR. HAYES: No objection.

21 JUDGE ROSAS: Respondent 200?

22 MS. STANLEY: 199? There should be a 199. Oh, you know  
23 what, never mind. It was one of the ones that was taken out.

24 MR. BALSAM: If you pull that from --

25 MS. STANLEY: Yep, got it, sorry. Okay.

1 THE COURT REPORTER: Is that --

2 MR. BALSAM: 200.

3 JUDGE ROSAS: Respondent 200.

4 MS. STANLEY: Two objections, Judge. First, as we  
5 discussed previously, it postdates any Union organizing  
6 campaign. It's from June of this year. Second, the witness --  
7 the manager who signed it, Selena (sic) Velasquez, was  
8 Respondent's witness. She testified the last week we were  
9 here, and I think she would've been the more appropriate  
10 witness to authenticate this document.

11 MR. BALSAM: Again, Judge, it goes to the point of, one,  
12 it's a business record. The fact that the manager issuing the  
13 discipline testified previously doesn't matter. It's -- it's  
14 irrelevant, and again, the -- the timing of this goes to show  
15 at -- in particular at a store that was never petitioned that  
16 consistent policies and procedures were rolled out across the  
17 market during this time frame, and that's what this document is  
18 for.

19 JUDGE ROSAS: Previously, you indicated it's a weight  
20 issue, so I'm going to overrule the objection.

21 Respondent 200 is received.

22 **(Respondent Exhibit Number 200 Received into Evidence)**

23 JUDGE ROSAS: Respondent 202?

24 MS. STANLEY: Well, my first objection is that the  
25 disciplines on the front and back, that's two different

1 disciplines. They're not separated into different exhibits,  
2 and I don't know that that's a huge issue. I just wanted to  
3 note it for the record. Again, you know, the first -- the  
4 front page, at least, is signed -- no, so the front and back  
5 pages are both signed by managers who are here on Respondent's  
6 case and testified. They both postdate the organizing  
7 campaign, so those will be my objections to 202.

8 MR. BALSAM: Judge, if it's an issue, we can separate the  
9 two out and make it a separate exhibit. Again, the witness has  
10 testified that even though a partner does not sign these  
11 corrective action forms, that these are the documents that are  
12 maintained in the ordinary course regardless of whether or not  
13 a partner signs because they don't have an obligation to sign.

14 MS. STANLEY: Right, and that wasn't my objection.

15 MR. BALSAM: I thought you just said that. No?

16 MS. STANLEY: No, I said it's that the -- the managers who  
17 signed were both here on your case --

18 MR. BALSAM: I -- I thought you said --

19 MS. STANLEY: -- and didn't --

20 MR. BALSAM: -- you said there was a signature issue.

21 MS. STANLEY: Yeah.

22 MR. BALSAM: I -- I'm -- my apologies.

23 Well, assuming it is an issue, Judge, the witness  
24 testified to that.

25 JUDGE ROSAS: Overruled. Respondent's 202 is received,

1 but let's designate the first page as 202(a) and the second  
2 page 202(b).

3 **(Respondent Exhibit Numbers 202(a) and 202(b) Received into**  
4 **Evidence)**

5 MR. HAYES: We have the same issue with 200, as well. It  
6 is three pages, but it's two different separate corrective  
7 actions, right?

8 JUDGE ROSAS: Okay, so let's redesignate that. It's --  
9 okay, so that would be Respondent's 200(a) and the second one  
10 starting on the second -- on the back of the first page is  
11 202 -- is -- I'm sorry -- 200(b).

12 MR. BALSAM: So -- so Judge, the second page -- just to  
13 make it clear for you, the two pages are one and the same.  
14 It's just a continuation, so it's only a 200(a) and 200(b).  
15 There's no (c) because the signature page is --

16 JUDGE ROSAS: No, I didn't say there --

17 MR. BALSAM: Okay.

18 JUDGE ROSAS: -- was a (c), no.

19 MR. BALSAM: Okay.

20 JUDGE ROSAS: Respondent 204?

21 MS. STANLEY: No objection.

22 MR. HAYES: No objection.

23 JUDGE ROSAS: Respondent 205.

24 THE COURT REPORTER: Do you want to receive?

25 JUDGE ROSAS: Respondent 204 is received.

1       **(Respondent Exhibit Number 204 Received into Evidence)**

2           JUDGE ROSAS:   Respondent 205?

3           MS. STANLEY:   205, I believe is the -- I believe is the  
4       same discipline on the front and the back, just to note that.  
5       It's not two separate disciplines.  It's the same -- it's just  
6       two copies of the same discipline.

7           MR. BALSAM:   And -- and Judge, it may be a vendor error.  
8       It may have been copied double-sided.

9           MS. STANLEY:   Other than that, I don't have an objection  
10      to it.  I just wanted to note that.

11          MR. HAYES:    No objection.

12          JUDGE ROSAS:   Respondent 205 is received.

13       **(Respondent Exhibit Number 205 Received into Evidence)**

14          JUDGE ROSAS:   Respondent 206.

15          MS. STANLEY:   I have no objection to 206.

16          MR. HAYES:    No objection.

17          JUDGE ROSAS:   Respondent 206 is received.

18       **(Respondent Exhibit Number 206 Received into Evidence)**

19          JUDGE ROSAS:   Respondent 207.

20          MS. STANLEY:   Only note that it's three separate  
21      corrective action forms.  Maybe we can designate the front --  
22      front page as 207(a), the back of page 1 is (b), and then, the  
23      second page as (c), but other than that, I don't have an  
24      objection to this.

25          MR. HAYES:    No objection.

1 JUDGE ROSAS: Respondent's 207(a), 207(b), and 207(c) are  
2 received.

3 **(Respondent Exhibit Numbers 207(a) and 207(c) Received into**  
4 **Evidence)**

5 JUDGE ROSAS: Respondent 208?

6 MS. STANLEY: No objection.

7 MR. HAYES: No objection.

8 JUDGE ROSAS: Respondent 209.

9 MS. STANLEY: My objection to this is that it's not  
10 comparative because the discipline at issue is not relevant to  
11 any of what is disclosed in the complaint.

12 MR. BALSAM: Judge, there was testimony the other day  
13 about a particular partner who refused to return keys and what  
14 would happen in that particular situation, so I think it's  
15 relevant relative to that. I know it's relative to that.

16 JUDGE ROSAS: Yeah, I have -- I have a pretty broad  
17 standard in terms of admissibility and allegedly comparable  
18 discipline. It always helps to get the full picture.

19 Overruled. Respondent 209 is received.

20 **(Respondent Exhibit Number 209 Received into Evidence)**

21 JUDGE ROSAS: Respondent 210.

22 MS. STANLEY: Same objection, Your Honor. The discipline  
23 in this corrective action form is not related to any of the  
24 disciplines that's alleged as unlawful on the complaint, and  
25 therefore, I don't think it's an appropriate comparative.

1 MR. BALSAM: Judge, I believe there is an allegation and  
2 there was testimony about a cash handling issue. I'm  
3 consulting with my colleague, Mr. Whalen, just to confirm  
4 because there's been a lot of testimony here, but I'm fairly  
5 confident that there was someone --

6 JUDGE ROSAS: There was --

7 MR. BALSAM: -- who test --

8 MS. STANLEY: There was testimony about it, but there's no  
9 allegation in the complaint that anyone was disciplined  
10 unlawfully because of anything like that.

11 MR. BALSAM: Again, Judge, there was testimony about it.  
12 This relates to that; it and refutes some of that out -- out --  
13 that -- that testimony.

14 JUDGE ROSAS: Respondent 210 is received.

15 **(Respondent Exhibit Number 210 Received into Evidence)**

16 JUDGE ROSAS: Respondent 211.

17 MS. STANLEY: 211, the first page of 211 is what I believe  
18 is in evidence as GC 169, the first -- I believe the front and  
19 back, but the second page of it is a separate discipline form  
20 that is not our General Counsel exhibit, so my only suggestion  
21 would be to do them as (a) and (b) if -- if both are going to  
22 be in.

23 JUDGE ROSAS: Well, let's get some clarification about  
24 Respondent's 211 for identification.

25 MR. BALSAM: Alicia, which one is -- which one is --

1       what -- what is it? 169?

2               MS. STANLEY: The first page -- 211 is the same as GC  
3       169 --

4               MR. BALSAM: Okay.

5               MS. STANLEY: -- but just the first page of it is, the  
6       front and back. The -- the second page, the 12/8/2021 form is  
7       not included in the GC exhibit.

8               MR. BALSAM: So you're saying front and back is GC 169?

9               MS. STANLEY: That's correct.

10              MR. BALSAM: Judge, we assume that that's accurate, and  
11       we'll -- we'll be able to verify it in a minute.

12       (Counsel confer)

13              JUDGE ROSAS: Yeah, I'm going to separate that at this  
14       point.

15              MR. BALSAM: That's fine. Judge, and that's -- we can  
16       just remove the first page from it, and we'll introduce the  
17       second one and call that 211?

18              JUDGE ROSAS: Any objection?

19              MS. STANLEY: No objection to that.

20              MR. HAYES: No objection.

21              JUDGE ROSAS: Respondent's 211 is received.

22       **(Respondent Exhibit Number 211 Received into Evidence)**

23              JUDGE ROSAS: Respondent 212.

24              MS. STANLEY: No objection.

25              MR. HAYES: No objection.





1 JUDGE ROSAS: Respondent 212 is received.

2 **(Respondent Exhibit Number 212 Received into Evidence)**

3 JUDGE ROSAS: Respondent 213.

4 MS. STANLEY: No objection.

5 MR. HAYES: No objection.

6 JUDGE ROSAS: Respondent 213 is received.

7 **(Respondent Exhibit Number 213 Received into Evidence)**

8 JUDGE ROSAS: Respondent 215.

9 MS. STANLEY: My same objection as before, and I can make  
10 this a standing objection just for the -- anything in 2022 that  
11 postdates, you know, the -- the -- the beginning or the --  
12 it -- you know, of the organizing campaign, I would just put a  
13 standing objection on it. I have to repeat it every time.

14 JUDGE ROSAS: This is as to Respondent 215?

15 MS. STANLEY: Oh, sorry. Sorry, I was looking at one that  
16 was pulled. My mistake. Never mind. I have no objection to  
17 215.

18 MR. HAYES: No objection.

19 JUDGE ROSAS: Respondent 215 is received.

20 **(Respondent Exhibit Number 215 Received into Evidence)**

21 JUDGE ROSAS: Respondent 216.

22 MS. STANLEY: I don't have an objection. I will note that  
23 the first page is a discipline from February 4th, 2017, and  
24 then the back and second pages are from February 11th of 2017,  
25 so they're two separate disciplines, I believe, but I don't

1 have any objection other than just noting that.

2 MR. HAYES: No objection.

3 JUDGE ROSAS: So it's two separate documents, so it would  
4 become Respondent 216(a) and 216(b).

5 JUDGE ROSAS: Respondent 217.

6 MS. STANLEY: Same objections to 217, 18 and 19, and it's  
7 my same standing objection from before regarding the dates.  
8 These are all in 2022, and I think they postdate the campaign  
9 to the extent that they're not appropriate comparators, but  
10 apart from that, I don't have objections to them, other than --  
11 other than that and that the two sup -- the two managers who  
12 signed these were here as Respondent witnesses and could've  
13 testified to them.

14 JUDGE ROSAS: Overruled. Respondent's 217, 218, and 219  
15 are received.

16 **(Respondent Exhibit Numbers 217 through 219 Received into**  
17 **Evidence)**

18 JUDGE ROSAS: Respondent 223.

19 MS. STANLEY: 223. Oh, I have no objection to 223.

20 MR. HAYES: No objection.

21 JUDGE ROSAS: Respondent 223 is received.

22 **(Respondent Exhibit Number 223 Received into Evidence)**

23 JUDGE ROSAS: 224.

24 MS. STANLEY: I have no objection. I would just note that  
25 the last page is a separate discipline than the first several

1 pages.

2 JUDGE ROSAS: So do I understand the first four pages  
3 front and back totaling eight pages is Respondent's 224(a) and  
4 then we have the last page is 224(b)?

5 MR. BALSAM: That's correct, Judge, and again, I was  
6 trying to ensure that I was providing documents as they  
7 maintain the ordinary course and that's how these documents  
8 were maintained.

9 JUDGE ROSAS: Respondent 224(a) and 224(b) are received.  
10 **(Respondent Exhibit Numbers 224(a) and 224(b) Received into**  
11 **Evidence)**

12 JUDGE ROSAS: 225.

13 MS. STANLEY: 225, the only objection is that the  
14 discipline in the corrective action form is not at issue in the  
15 complaint. There was an allegation, I believe, related, but it  
16 was withdrawn.

17 JUDGE ROSAS: It's because he brought his own bag lunch?

18 MR. BALSAM: I'm sorry?

19 JUDGE ROSAS: This is because he brought his own bag  
20 lunch?

21 MR. BALSAM: I think the document speaks for itself,  
22 Judge.

23 JUDGE ROSAS: Overruled. Respondent 225 is received.  
24 **(Respondent Exhibit Number 225 Received into Evidence)**

25 JUDGE ROSAS: Respondent 226.

1 MS. STANLEY: 226, no objection, but the discipline at  
2 issue in this corrective action form is not alleged as unlawful  
3 in the complaint in any capacity.

4 JUDGE ROSAS: Overruled. Respondent's 226 is received.

5 **(Respondent Exhibit Number 226 Received into Evidence)**

6 JUDGE ROSAS: Respondent 227.

7 MS. STANLEY: Same objection that the discipline in this  
8 corrective action form is not alleged as unlawful in the  
9 complaint. Also, it is, I believe, two separate disciplines on  
10 the front and back, one from April 2021 and one from January of  
11 2020 for the same partner.

12 MR. BALSAM: Because there are allegations in this case  
13 about the use of profanity and -- and ability to maintain  
14 proper decorum during work, so this goes directly to that.

15 MS. STANLEY: I'm sorry, I can't -- I didn't hear what you  
16 said.

17 MR. BALSAM: All right. There are allegations in this  
18 particular case with respect to partners who have used certain  
19 language on the floor and discipline has been imposed on them.  
20 I think that this document goes to that.

21 JUDGE ROSAS: Respondent 227(a) and Respondent 227(b) are  
22 received.

23 **(Respondent Exhibit Numbers 227(a) and 227(b) Received into**  
24 **Evidence)**

25 MS. STANLEY: I have no objection to 228.

1 MR. HAYES: No objection.

2 JUDGE ROSAS: What?

3 MS. STANLEY: Oh, I said 228, I don't have any objection.

4 JUDGE ROSAS: Right. I'll -- I'll let you take the lead.  
5 Go ahead.

6 MS. STANLEY: Okay. 229, my only objection, again, is  
7 that the discipline at issue was not anything that's alleged in  
8 the complaint. Further, the first page is a different  
9 corrective action form than the back of the first page and the  
10 second page, which I believe are the same, so if they could be  
11 229(a) and (b).

12 JUDGE ROSAS: Overruled. Respondent's 229(a) and 229(b)  
13 are received.

14 **(Respondent Exhibit Numbers 229(a) and 229(b) Received into**  
15 **Evidence)**

16 MS. STANLEY: I have no objection to 230 other than the  
17 date, but that's my standing objection.

18 JUDGE ROSAS: Overruled. Respondent's 230 is received.

19 **(Respondent Exhibit Number 230 Received into Evidence)**

20 MS. STANLEY: My only objection to R-231 is that it's  
21 incomplete. There is no line for the partner's signature.  
22 Maybe the partner didn't sign it, but there's no way to tell,  
23 and the -- the supervisor who signed it, delivered it testified  
24 on Respondent's case last week and could've cleared that up for  
25 us.

1           MR. BALSAM: It doesn't negate the fact, Judge, that this  
2 document is as the witness testified are maintained in this  
3 manner at the store, and the picture that's reflected is what  
4 was uploaded to the system, and again, it's directly related to  
5 the allegations in the complaint.

6           JUDGE ROSAS: This document is -- it appears inconsistent  
7 with the type of record that's been produced for other  
8 exhibits. For example, Respondent 224(b), where you have  
9 following the signatures, the manager and a witness paragraph  
10 that explains that the partner has been explained the above and  
11 that the partner understands that the partner's signature does  
12 not necessarily imply agreement, et cetera, and then there's a  
13 partner signature or not, and then there's a provision below  
14 that if they disagree with or have concerns about this  
15 corrective action.

16           So the way I see it, this document for which I think a --  
17 a foundation has been laid as a -- as a business record only  
18 has so much weight. To the extent that it shows that it was  
19 generated by management but it wasn't signed by the individual,  
20 and to the extent that it indicates that it was even presented  
21 to the individual or whether that's the individual's signature  
22 and wording in that box is perhaps something that's -- that's  
23 up in the air, but -- but it is a business record, and so I'm  
24 not sure what weight I'm going to give this.

25           MR. BALSAM: Judge, this witness was specifically asked

1 about these photocopies of these documents by the counsel for  
2 the General Counsel prior to his departure outside, and asked  
3 quest --

4 JUDGE ROSAS: Hold on one second. Which witness?

5 MR. BALSAM: The one that -- Mr. Tobias. Mr. Tobias was  
6 asked questions about the photographs of these documents --

7 JUDGE ROSAS: Which witness?

8 MR. BALSAM: This witness.

9 JUDGE ROSAS: This witness was asked about these two  
10 documents?

11 MR. BALSAM: Correct.

12 JUDGE ROSAS: That's right.

13 MR. BALSAM: By the counsel for the General Counsel in  
14 which he responded and said that these documents are the  
15 documents that were uploaded to the system that he has --  
16 personally have access to --

17 JUDGE ROSAS: Right.

18 MR. BALSAM: -- so these are, in fact, the full scope of  
19 what Starbucks has with respect to these particular documents.

20 JUDGE ROSAS: Yeah, and -- and -- and that's what I said.  
21 It's -- it's been established as a business record.

22 MR. BALSAM: Correct.

23 JUDGE ROSAS: However, the weight, if any, to be given to  
24 this document doesn't reflect that it was presented to or  
25 signed by the employee because there's no employee signature as

1 is the case with the other business records provided by the  
2 Respondent for corrective action forms.

3 MR. BALSAM: But Judge, the witness also testified that  
4 there are situations where partners don't sign, and so just  
5 because a partner didn't sign, it doesn't mean it wasn't  
6 delivered to the partner. And also here, there is, in fact, a  
7 partner statement which is completed, so.

8 JUDGE ROSAS: But where -- in previous documents presented  
9 where they don't sign, there's a section for them -- for them  
10 to sign, but they just didn't sign. There -- there's no such  
11 section on this document. This document appears different.

12 MR. BALSAM: Yeah, Judge, I'm happy -- as the witness  
13 testified to, you know, these documents are maintained in local  
14 stores and they are uploaded to systems. To the extent that  
15 there is a more complete version of this at the local facility  
16 here in -- particular to Sheridan and Bailey, what we will do  
17 is we will provide the full and complete copy to the counsel  
18 for the General Counsel and then substitute this if that  
19 alleviates some of your concerns.

20 JUDGE ROSAS: It -- I'm just telling you what I'm  
21 receiving this for --

22 MR. BALSAM: Understood.

23 JUDGE ROSAS: -- as -- as a business record, but --

24 MR. BALSAM: Yep.

25 JUDGE ROSAS: -- that's pretty much it --



1 MR. BALSAM: Okay.

2 JUDGE ROSAS: -- and the same with respect to Respondent  
3 232.

4 MR. BALSAM: Understood. Thank you, Judge.

5 JUDGE ROSAS: Okay. So I'm receiving them for limited  
6 purposes, Respondent 31 and Respondent 32 -- 231 and 232.

7 **(Respondent Exhibit Numbers 231 and 232 Received into Evidence)**

8 MS. STANLEY: I also just note on 232 that there's no  
9 date. There's not a date created; there's not a date  
10 delivered, so I feel like that's --

11 JUDGE ROSAS: Right. It's -- it's a business record --

12 MS. STANLEY: Yeah.

13 JUDGE ROSAS: -- but -- but it doesn't have that  
14 information, okay. So let's go to Respondent 233.

15 MS. STANLEY: No objection to 233.

16 MR. HAYES: No objection.

17 MS. STANLEY: And no objections to 234, either.

18 MR. HAYES: No objection.

19 JUDGE ROSAS: Oh, Respondent's 233 and 234 are received.

20 **(Respondent Exhibit Numbers 233 and 234 Received into Evidence)**

21 MS. STANLEY: 235, my only objection is the subject matter  
22 of the discipline is not relevant to anything in the complaint.  
23 Other than that, I have no -- no objection.

24 JUDGE ROSAS: Respondent 235 is received over objection.

25 **(Respondent Exhibit Number 235 Received into Evidence)**



1 MS. STANLEY: My objection to 236 is that it's exactly the  
2 same as 235. It's a duplicate copy.

3 MR. BALSAM: No, it's not.

4 JUDGE ROSAS: It -- it's the other partner in the  
5 exchange --

6 MS. STANLEY: Oh, sorry. I withdraw my objection. I have  
7 no objection to 236.

8 JUDGE ROSAS: Respondent 236 is received.

9 **(Respondent Exhibit Number 236 Received into Evidence)**

10 MS. STANLEY: No objection to 237.

11 JUDGE ROSAS: Respondent's 237 is received.

12 **(Respondent Exhibit Number 237 Received into Evidence)**

13 MS. STANLEY: 238, my only objection is that the  
14 discipline at issue is not relevant to the complaint.

15 JUDGE ROSAS: Overruled. Respondent's 238 is received.

16 **(Respondent Exhibit Number 238 Received into Evidence)**

17 MS. STANLEY: 239, my objections are, A, the manager who  
18 delivered this corrective action testified herself and could  
19 have properly authenticated it, and B, the timing that it's  
20 post the -- the, you know, nescience of the organizing campaign  
21 and therefore wouldn't necessarily be a comparator.

22 JUDGE ROSAS: Overruled. Respondent's 239 is received

23 **(Respondent Exhibit Number 239 Received into Evidence).**

24 MS. STANLEY: I have no objection to 240.

25 MR. HAYES: No objection.

1 JUDGE ROSAS: Respondent 240 is received.

2 **(Respondent Exhibit Number 240 Received into Evidence)**

3 MS. STANLEY: My objection to 241 is the same as what Your  
4 Honor noticed in 231 and 232. There's no place for a partner  
5 signature. There's no writing on here to indicate that the  
6 partner saw this or -- or received it.

7 MR. BALSAM: And we'll approach this the same way we did,  
8 Judge, with respect to the other two exhibits.

9 JUDGE ROSAS: Okay. Well, I'll receive it for the same  
10 reasons that I previously said in the limited purpose as  
11 stated. Respondent 241 is received.

12 **(Respondent Exhibit Number 241 Received into Evidence)**

13 JUDGE ROSAS: And 242 as well. Respondent 242 is received  
14 for limited purposes.

15 **(Respondent Exhibit Number 242 Received into Evidence)**

16 JUDGE ROSAS: Respondent 243?

17 MS. STANLEY: I have no objection to 244.

18 MR. HAYES: No objection.

19 JUDGE ROSAS: We're on 243, is this --

20 MS. STANLEY: 244. Is that 244?

21 JUDGE ROSAS: 243 is received, correct, without objection?

22 MS. STANLEY: No, 244.

23 JUDGE ROSAS: And what about 243?

24 MS. STANLEY: 243, you said was the same as 232, -41,  
25 and -42?

1 MR. BALSAM: It's not. It's signed in the back, 42.

2 MS. STANLEY: 243? Oh, okay. I thought I -- I must have  
3 misheard. Okay.

4 JUDGE ROSAS: It is the same as which one?

5 UNIDENTIFIED SPEAKER: It's not.

6 MS. STANLEY: It's not. I -- I must have misheard, Your  
7 Honor.

8 MR. HAYES: 241 and 242 had the partner --

9 MS. STANLEY: The signature --

10 MR. HAYES: -- signature issue.

11 MS. STANLEY: Right. But 243 is actually signed on the  
12 back and therefore, I don't have an objection to it.

13 MR. HAYES: No objection.

14 JUDGE ROSAS: Respondent 243 is received.

15 **(Respondent Exhibit Number 243 Received into Evidence)**

16 MS. STANLEY: And I don't have any objection to 244  
17 either.

18 MR. HAYES: No objection.

19 JUDGE ROSAS: Respondent's 244 is received.

20 **(Respondent Exhibit Number 244 Received into Evidence)**

21 MS. STANLEY: No objection to 245.

22 MR. HAYES: No objection.

23 JUDGE ROSAS: Respondent's 245 is received.

24 **(Respondent Exhibit Number 245 Received into Evidence)**

25 MS. STANLEY: 246 and 247, I have the same objections.



1 One, the dates are in 2022. I don't think they're appropriate  
2 comparators. And two, the manager who signed them previously  
3 testified in the Respondent's case and could have authenticated  
4 them there.

5 JUDGE ROSAS: Overruled. Respondent's 246 and 247 is  
6 received.

7 **(Respondent Exhibit Number 246 Received into Evidence)**

8 MS. STANLEY: I would also note that the 247 has two  
9 separate disciplines on it. There's one on the front page from  
10 June 13th, 2022. There's one on the back page from May 12th,  
11 2022. So I'll -- we can, I guess, designate them as A and B.

12 JUDGE ROSAS: So we'll redesignate that as Respondent's  
13 247(a) and Respondent's 247(b) on the back.

14 **(Respondent Exhibit Numbers 247(a) and 247(b) Received into**  
15 **Evidence)**

16 MS. STANLEY: 248, again, the date and then also there's  
17 no witness signature. There's no spot for a witness signature,  
18 no indication that it was seen by the -- not a witness  
19 signature, a partner signature.

20 JUDGE ROSAS: Overruled. Received for limited for  
21 purposes as previously stated.

22 **(Respondent Exhibit Number 248 Received into Evidence)**

23 MS. STANLEY: My only objections to 249 are the same as  
24 prior couple ones, the date. And I think it post-dates enough  
25 to not be a comparator. And the manager who issued it

1 testified for Respondent and could have talked about this.

2 JUDGE ROSAS: Overruled. Respondent's 249 is received.

3 **(Respondent Exhibit Number 249 Received into Evidence)**

4 MS. STANLEY: No objection to 250.

5 MR. HAYES: No objection.

6 JUDGE ROSAS: Respondent 250 is received.

7 **(Respondent Exhibit Number 250 Received into Evidence)**

8 MS. STANLEY: And no objection to 251.

9 MR. HAYES: No objection.

10 JUDGE ROSAS: I admit Respondent 251.

11 **(Respondent Exhibit Number 251 Received into Evidence)**

12 MS. STANLEY: For 252, I don't have an objection to the  
13 first page of it. However, the back of page 2 going to the end  
14 of the document, there's -- I don't know what I'm looking at.  
15 And there's a lot of handwritten notes, it looks like, on  
16 photocra -- photocopied note paper, and I don't know what -- I  
17 don't know what that is.

18 MR. BALSAM: Judge, in the -- excuse me -- in the notice  
19 of separation itself, it references what the attachments are.  
20 Those are the attachments that were accompanying the notice of  
21 separation. And again, this was what the document -- how it is  
22 maintained in the ordinary course of business that was pulled  
23 from the partner file.

24 JUDGE ROSAS: With that clarification, is there any  
25 objection?

1 MS. STANLEY: Assuming that -- only that I still -- I  
2 don't know who wrote the written statement on the back of the  
3 third page. And that's not referenced in the notice of  
4 separation. But as a business record, I don't have -- I don't  
5 have an objection to it as that. I just --

6 JUDGE ROSAS: So do you have any objection?

7 MS. STANLEY: Only that I don't think -- at least with  
8 regard to this written statement, I don't think that's been  
9 authenticated. I don't know -- I don't know who wrote it. I  
10 don't know when it was written. I don't know anything about  
11 it. But other than that, no, Your Honor.

12 JUDGE ROSAS: I'm going to receive it. It's in there. We  
13 have enough information elsewhere with respect to the  
14 Respondent's actions. So I'll receive it since I already  
15 overruled that objection. Respondent's 252 is received.

16 **(Respondent Exhibit Number 252 Received into Evidence)**

17 MS. STANLEY: 253, I don't have an objection to the first  
18 page, front and back, but the second page looks to be a  
19 separate corrective action that is missing some information and  
20 also doesn't have any kind of partner signature or anything  
21 like that.

22 JUDGE ROSAS: On the second page of 253?

23 MS. STANLEY: Yes.

24 JUDGE ROSAS: I believe --

25 MS. STANLEY: So the -- the front and back of the --

1 JUDGE ROSAS: I believe there is.

2 MS. STANLEY: -- first page are -- are one, and then the  
3 page 2, the -- looks like a separate discipline for the same --  
4 same partner on --

5 MR. BALSAM: Judge, I don't want to put words into the  
6 counsel for the General Counsel's mouth, but I -- my suspicion  
7 is that because on the top of the page that has the Bates  
8 number 12836 didn't say "notice of corrective action". That's,  
9 I think, what's the challenge -- concern is. But to the extent  
10 that there is a more complete version that I can get my hands  
11 on, I'm happy to supplement the document that is Bates labeled  
12 12836 with a better copy.

13 MS. STANLEY: Well, it's not just that it's missing those  
14 words at the top. It's missing all of the information in -- in  
15 the top portion except for the partner name. It's missing --  
16 it looks like it's cut off on the right-hand side. It's  
17 missing any kind of partner signature or note that the partner  
18 refused to sign.

19 JUDGE ROSAS: You have no objection to the first two  
20 pages?

21 MS. STANLEY: That's correct.

22 JUDGE ROSAS: Just that third page?

23 MS. STANLEY: Right.

24 JUDGE ROSAS: It's kind of just out there. I'm going  
25 to -- I'm going to grant the objection with respect to the



1 third page. In fact, I'm going to pull that. So it's just --  
2 without objection, Respondent's 253, consisting of two pages,  
3 front and back, is received.

4 **(Respondent Exhibit Number 253 Received into Evidence)**

5 JUDGE ROSAS: 254?

6 MS. STANLEY: 254, no objection.

7 MR. HAYES: No objection.

8 JUDGE ROSAS: Respondent's 254 is received.

9 **(Respondent Exhibit Number 254 Received into Evidence)**

10 MS. STANLEY: Okay. 255, same issue we noted before where  
11 there's no partner signature, no spot for a partner signature,  
12 and no statement by the partner indicating it was issued.

13 JUDGE ROSAS: I'll overrule the objection and receive it  
14 for the limited purpose as previously stated.

15 **(Respondent Exhibit Number 255 Received into Evidence)**

16 MS. STANLEY: I have no objection to 256 or 257.

17 MR. HAYES: No objection.

18 JUDGE ROSAS: Respondent's 256 and 257 are received.

19 **(Respondent Exhibit Numbers 256 and 257 Received into Evidence)**

20 MS. STANLEY: My only objection to 258, one, that -- or my  
21 only objection to 258 is that the supervisor who issued the  
22 discipline was here on Respondent's case and could have  
23 testified about it.

24 JUDGE ROSAS: Overruled. Respondent's 258 is received.

25 **(Respondent Exhibit Number 258 Received into Evidence)**



1 MS. STANLEY: I have no objection to 259, 260, or 261.

2 MR. HAYES: No objection.

3 JUDGE ROSAS: Respondent's 259, 260, and 261 are received.

4 **(Respondent Exhibit Numbers 259, 260 and 261 Received into**  
5 **Evidence)**

6 MS. STANLEY: 262, I actually can't tell if this is a  
7 discipline that was issued to a partner or if it's a record of  
8 a conversation that was had with a partner.

9 MR. HAYES: I don't have 262. Did you --

10 MS. STANLEY: Was that pulled? Am I --

11 MR. HAYES: Was that pulled out?

12 MR. BALSAM: It was pulled.

13 MS. STANLEY: Okay. Sorry. Never mind.

14 MR. BALSAM: Yeah. It was -- we went from 61 and then 63.

15 MS. STANLEY: That's right. Yeah, I -- I'm just trying to  
16 go through them as I --

17 MR. BALSAM: That's okay.

18 MS. STANLEY: -- go through with me. So you know.

19 263, my only objection is that there's no corresponding  
20 allegation in the complaint. I think to the extent there was,  
21 that that's been withdrawn.

22 JUDGE ROSAS: Overruled. Respondent's 263 is received.

23 **(Respondent Exhibit Number 263 Received into Evidence)**

24 MS. STANLEY: 265, same objection in that there's no spot  
25 for a partner signature, no indication that the partner saw

1 this.

2 JUDGE ROSAS: I'll overrule the objection for the same  
3 limited reasons previously stated.

4 **(Respondent Exhibit Number 265 Received into Evidence)**

5 MS. STANLEY: No objection to 267.

6 MR. HAYES: No objection.

7 JUDGE ROSAS: Respondent's 267 is received.

8 **(Respondent Exhibit Number 267 Received into Evidence)**

9 MS. STANLEY: No objection to 268.

10 MR. HAYES: No objection.

11 JUDGE ROSAS: Respondent's 268 is received.

12 **(Respondent Exhibit Number 268 Received into Evidence)**

13 MS. STANLEY: And no objection to 269.

14 JUDGE ROSAS: As is 269.

15 **(Respondent Exhibit Number 269 Received into Evidence)**

16 MS. STANLEY: Did you pull 271 as well? I know 270 was --

17 MR. BALSAM: I pulled -- yes. We jumped to 272.

18 MS. STANLEY: Okay.

19 THE COURT REPORTER: So there is no 270 or 271?

20 MS. STANLEY: Right. The only objection to 272 is that  
21 the store at issue I don't believe is -- is neither in the  
22 Buffalo market nor the single Rochester Starbucks at issue in  
23 this proceeding.

24 JUDGE ROSAS: Where is South Greece?

25 MR. BALSAM: It's in the -- it's in Rochester, Judge.

1 JUDGE ROSAS: Oh, okay. Overruled. Respondent's 272 is  
2 received.

3 **(Respondent Exhibit Number 272 Received into Evidence)**

4 JUDGE ROSAS: I mean, just -- just for clarification, what  
5 is this being offered for?

6 MR. BALSAM: Comparative documents in the region.

7 JUDGE ROSAS: No, but I'm -- it's -- it's -- so it's in  
8 Rochester. There's -- there's one store in Rochester, right,  
9 that's in this com --

10 MS. STANLEY: The -- there's one that's at issue in this  
11 case.

12 JUDGE ROSAS: Right.

13 MS. STANLEY: Right.

14 JUDGE ROSAS: And this one's also in Rochester, right?

15 MS. STANLEY: This is another store in or around Rochester  
16 that's not involved in this case.

17 MR. BALSAM: But it's in the region, Judge, for  
18 comparative purposes.

19 JUDGE ROSAS: Respondent 272 is received. I have a couple  
20 following there, 273, 274 that are the same location?

21 MS. STANLEY: Yes.

22 JUDGE ROSAS: Same objection?

23 MS. STANLEY: Same objection, Your Honor.

24 JUDGE ROSAS: Respondent 273 and Respondent 274 are  
25 received over objection.

1       **(Respondent Exhibit Numbers 273 and 274 Received into Evidence)**

2           MS. STANLEY: Same objection with regard to 275. The New  
3       Hartford store is near Utica, which is nowhere near Rochester.  
4       It's about two hours east of Rochester. It's closer to Albany.

5           MR. BALSAM: Judge, again, as -- as we've come to hear  
6       from Deanna Pusatier, who was here, she's charged with the  
7       region, which covers that as well.

8           JUDGE ROSAS: Utica?

9           MR. BALSAM: Yes. And therefore, when you roll up to the  
10      top-level person showing comparative discipline in other parts  
11      of the region, I think is a proper comparative for this case.

12          JUDGE ROSAS: And what was her position again?

13          MR. BALSAM: Regional director.

14          JUDGE ROSAS: Okay. Overruled. Respondent's 275 is  
15      received.

16       **(Respondent Exhibit Number 275 Received into Evidence)**

17          MS. STANLEY: Same objection to 276. I believe it's the  
18      same or a similar store. Also by date, I think it's -- it's  
19      beyond the scope of what would be considered a comparator.

20          JUDGE ROSAS: Overruled. Respondent's 276 is received.

21       **(Respondent Exhibit Number 276 Received into Evidence)**

22          MS. STANLEY: 277, same objection regarding the date and  
23      its status as a comparator. Other than that, no objection.

24          JUDGE ROSAS: Overruled. Respondent's 277 is received.

25       **(Respondent Exhibit Number 277 Received into Evidence)**



1 MS. STANLEY: 278, my objection is there's no  
2 corresponding allegation in the complaint. Otherwise, I don't  
3 have a -- an objection to this.

4 MR. BALSAM: Alicia, are you looking at 278, time in  
5 attendance issues?

6 MS. STANLEY: Yeah, no-call, no-shows, which is not --  
7 there's no no-call, no-shows that are alleged as being  
8 unlawfully disciplined.

9 MR. BALSAM: Judge, I will point out that the vio --  
10 policy violation is time in attendance, which is at issue in  
11 this case.

12 JUDGE ROSAS: Overruled. Respondent's 278 is received.

13 **(Respondent Exhibit Number 278 Received into Evidence)**

14 MS. STANLEY: The same objections for 279 as for 280.  
15 One, they're both issued in -- sorry. I'm just -- I'm --  
16 they're both issued in June -- on June 6th of 2022, and I think  
17 that post-dates every single allegation in the complaint. And  
18 also Henrietta Market Square is neither a Buffalo store nor the  
19 single Rochester store that is at issue in this complaint.

20 MR. HAYES: 279 has no partner signature line. We object  
21 on that basis too.

22 MR. BALSAM: So Judge, again, as I mentioned before to  
23 the -- within the region that compromises a -- it's composed of  
24 also the Buffalo market, the same Regional Director, applicable  
25 to that market was also the same Regional Director for this

1 market. The fact that there is no signature line for the  
2 partner is clear for at least 279 because the partner declined  
3 to sign. So there wouldn't be a signature block for that  
4 partner. And same thing with --

5 JUDGE ROSAS: On 279?

6 MR. BALSAM: And 2 -- and -- I'm sorry.

7 JUDGE ROSAS: Yeah.

8 MR. BALSAM: Yeah, 279 and 280, in both situations, the  
9 partner refused to sign.

10 JUDGE ROSAS: All right. Well --

11 MR. BALSAM: Or declined to write a statement. I'm sorry.  
12 Declined to write a statement.

13 JUDGE ROSAS: Yeah, I see that there, but I'm going to  
14 overrule the objection only to the extent as previously stated.  
15 For limited purposes, I'll receive it because there is that  
16 section that's in the business record. It's been established  
17 to be the -- the -- the format that pro -- indicates that there  
18 should be a partner section. So there is none here, so I'm  
19 going to receive this one for limited purposes. And I'll  
20 overrule the objection for Respondent's 280.

21 **(Respondent Exhibit Numbers 279 and 280 Received into Evidence)**

22 MS. STANLEY: 281, my only objection is the date. The  
23 date created says June 1st, 2021. The date it's signed by the  
24 manager and the partner is June of 2022. So I would assume  
25 that it's a 2022 discipline.

1 JUDGE ROSAS: All right. Well, it speaks for itself. I  
2 see reference to -- in the document to June 1st of -- June 1st  
3 of '21 as well as June 3rd of 2021. And there is reference to  
4 an incident on April 30th of '22, having been signed June 7th  
5 of '22. It is what it is. Clover Commons is where?

6 MS. STANLEY: I believe that is now the Brighton, Monroe,  
7 and Clover store in Rochester that is the -- the -- the  
8 Rochester store at issue here. So I don't have an objection to  
9 that.

10 JUDGE ROSAS: Okay. So if -- I'm not sure if you still  
11 have an objection, but I'm going to receive it over objection  
12 if there is one. Respondent 281 is received.

13 **(Respondent Exhibit Number 281 Received into Evidence)**

14 MS. STANLEY: My only objection to 282 is -- is that it's  
15 a 2022 discipline. I don't think it's an appropriate  
16 comparator. Otherwise, I don't have an objection.

17 JUDGE ROSAS: Overruled. Respondent's 282 is received.

18 **(Respondent Exhibit Number 282 Received into Evidence)**

19 MS. STANLEY: Same objections to 283 and 284.

20 JUDGE ROSAS: As to the date?

21 MS. STANLEY: Yes, as to the date, Your Honor.

22 JUDGE ROSAS: Overruled. Respondent's 283 and 284 are  
23 received.

24 **(Respondent Exhibit Numbers 283 and 284 Received into Evidence)**

25 MS. STANLEY: And then Respondent 285, I'm --





1 JUDGE ROSAS: It's not in.

2 MR. BALSAM: I crossed it out.

3 MS. STANLEY: Oh, you -- okay.

4 MR. BALSAM: Yeah.

5 MS. STANLEY: Okay. Good then. Never mind. That's it.

6 MR. BALSAM: Judge, could we just have five minutes before  
7 we --

8 JUDGE ROSAS: Sure.

9 MR. BALSAM: Thank you.

10 (Off the record at 12:32 p.m.)

11 JUDGE ROSAS: So Respondent's 228 --

12 MR. BALSAM: No.

13 JUDGE ROSAS: -- is not objected to?

14 MR. BALSAM: She can remember it.

15 MS. STANLEY: No.

16 JUDGE ROSAS: Okay. So Respondent's 228 is received.

17 **(Respondent Exhibit Number 228 Received into Evidence)**

18 MR. BALSAM: Judge, we have nothing further for this  
19 particular witness. We do have additional witnesses this  
20 afternoon. I would request that we maybe take a lunch break  
21 now.

22 JUDGE ROSAS: Sure.

23 MR. BALSAM: Should I have the witness come back?

24 JUDGE ROSAS: Well, does the General Counsel or the  
25 Charging Party intend to cross-examine him?

1 MS. STANLEY: I may have like one or two questions.

2 JUDGE ROSAS: So why don't we get him here now?

3 MR. BALSAM: Okay. Great.

4 JUDGE ROSAS: Okay. The General Counsel has cross-  
5 examination.

6 THE WITNESS: Oops. Sorry.

7 **CROSS-EXAMINATION**

8 Q BY MS. STANLEY: Hi, Mr. Tobias.

9 A Hello.

10 Q If a store manager didn't follow the virtual coach  
11 recommendation and the discipline they issued wasn't disputed,  
12 would that come to your attention in any -- in any way?

13 A No.

14 Q So would you necessarily be aware of what discipline was  
15 issued if it wasn't disputed?

16 MR. BALSAM: Objection. Calls for speculation.

17 JUDGE ROSAS: He can answer that. Overruled.

18 THE WITNESS: Can you repeat the question?

19 Q BY MS. STANLEY: If a discipline wasn't disputed, would it  
20 come to your attention of what -- what was issued?

21 A No.

22 Q Even if a store manager does follow the virtual coach  
23 recommendation, if the discipline isn't disputed, isn't it  
24 correct that it wouldn't come to your attention?

25 A Yes.



1 MS. STANLEY: I have nothing further.

2 MR. HAYES: No questions.

3 MR. BALSAM: Just brief follow up.

4 **REDIRECT EXAMINATION**

5 Q BY MR. BALSAM: Mr. Tobias, you testified earlier that you  
6 have the ability to pull a prior discipline that are imposed on  
7 partners, correct?

8 A Yes.

9 Q And so even if a store manager or district manager did not  
10 consult you with respects to the imposition of a discipline, in  
11 the event that that partner had subsequent discipline, you  
12 would become aware of the fact that that partner had a prior  
13 discipline, correct?

14 A Yes.

15 MR. BALSAM: Nothing further, Judge.

16 JUDGE ROSAS: Anything else?

17 **RECROSS-EXAMINATION**

18 Q BY MS. STANLEY: Isn't it true that you would only become  
19 aware of that if -- if the subsequent discipline was -- was  
20 brought to your attention and someone consulted you on it?

21 A Yes.

22 MS. STANLEY: Nothing further.

23 MR. HAYES: No questions.

24 MR. BALSAM: Nothing, Judge.

25 JUDGE ROSAS: Thank you, sir. Your testimony is

1 concluded. Do you not discuss your testimony with anybody  
2 until you're advised otherwise by counsel. All right?

3 THE WITNESS: Okay.

4 JUDGE ROSAS: Have a good day.

5 THE WITNESS: And then do you want me to just leave these  
6 here?

7 JUDGE ROSAS: Off the record.

8 (Off the record at 12:46 p.m.)

9 JUDGE ROSAS: Respondent?

10 MS. POLITO: Good afternoon, Your Honor. Respondent calls  
11 Adrian Morales to the stand.

12 Adrian, you can just go right up to the --

13 MR. MORALES: Okay.

14 MS. POLITO: Right next to the --

15 JUDGE ROSAS: Raise your right hand.

16 Whereupon,

17 **ADRIAN MORALES**

18 having been duly sworn, was called as a witness herein and was  
19 examined and testified as follows:

20 JUDGE ROSAS: All right. Have a seat. State and spell  
21 your name, and provide us with an address.

22 THE WITNESS: Thank you. Adrian Morales, A-D-R-I-A-N  
23 M-O-R-A-L-E-S. Address, 5721 Sweetwater Boulevard (phonetic  
24 throughout), Sugar land, Texas 77498.

25 **DIRECT EXAMINATION**



1 Q BY MS. POLITO: Good afternoon, Mr. Morales. Can you tell  
2 us where you work?

3 A For Starbucks.

4 Q How long have you worked for Starbucks?

5 A I've worked for Starbucks since 2003.

6 Q Which is about how many years?

7 A Roughly about 19 years.

8 Q Tell us about your career path at Starbucks.

9 A I started off as a barista and worked my way up to a shift  
10 supervisor, assistant manager, store manager. And as a store  
11 manager I've worked nearly every kind of store. So from low-  
12 volume to high-volume to two stores at the same time or more.  
13 I've supported other stores before as a support store manager,  
14 training store manager. And I've also worked as a DMTLA for  
15 three months.

16 Q When did you first become a store manager?

17 A I first became a store manager in 2010.

18 Q In your roles as store manager, did you ever help open up  
19 new locations?

20 A I've opened up new locations, and I've gone through  
21 several renovations.

22 Q When did you do your district manager TLA assignment?

23 A I did that in March.

24 Q Of 2022?

25 A Yes, of 2022.

1 Q And what is a TLA assignment?

2 A Just a time-limited assignment.

3 Q And how long are those -- the time-limited assignments  
4 normally for?

5 A Those are generally 90 days.

6 Q Did there come a time that you supported the Buffalo  
7 market?

8 A Yes.

9 Q And when was that?

10 A I was supporting the Buffalo market from late September,  
11 like around September 26th to January, the end of January, I  
12 think January 26th.

13 Q And how did you -- how did you end up supporting the  
14 Buffalo market? Did someone ask you?

15 A So my RD, Nate Kovach, approached me about coming to  
16 support the Buffalo market.

17 Q And what did he tell you about the need for you to support  
18 the Buffalo market?

19 A Basically the same work that I was already doing in  
20 Houston. So training store managers and supporting stores is  
21 generally what I was going to be doing in the Buffalo market.

22 Q And so in -- your expectation when you arrived in Buffalo  
23 would be that you were training store managers?

24 A No, I would be doing one or the other. So whether that be  
25 just supporting the stores themselves as a, you know, in my

1 work of dual manager or whatnot, or being a training store  
2 manager.

3 Q When you arrived in Buffalo, were you assigned a  
4 particular store to work in?

5 A When I first got to Buffalo, no, I was just supporting a  
6 few stores. And then I -- you know, they assigned me to East  
7 Robinson.

8 Q When you first arrived and you supported the few stores,  
9 do you recall the names of those stores?

10 A I don't recall the names of the stores. I just know that,  
11 you know, they -- I was moving around during that time.

12 Q Do you recall the conditions of any of those stores?

13 A Yeah, the conditions were -- were pretty harsh during that  
14 time.

15 Q Tell us what you mean when you say that "the conditions  
16 were pretty harsh".

17 A When I first got to Buffalo, the stores were dramatically  
18 short-staffed. Cleanliness was a very big issue. So see --  
19 the systems that we have in place were not being followed. But  
20 across the board, all of the dimensions, like a store manager's  
21 approach, you know, whether that be scheduling or any of the  
22 teaching and training or even development wasn't really being  
23 done in any of the stores.

24 Q What was your job title when you were working in Buffalo  
25 at the East Robinson store?

1 A Support store manager.

2 Q Had you heard of store -- that title, support store  
3 manager prior to arriving in Buffalo in 2021?

4 A Yeah, I've heard it before.

5 Q And how had you heard it before?

6 A In my market, for the most part, any time we had either  
7 multiple stores or us supporting multi -- dual-managing stores  
8 or doing things, they would call us support store managers.

9 Q On the occasions in the past when you had assisted stores  
10 with opening, what title would you hold during that -- those  
11 occasions?

12 A I would always generally hold the store manager position.

13 Q When you arrived at the East Robinson store, what was  
14 it -- what were the conditions of the East Robinson store in  
15 September of 2021?

16 A The East Robinson store felt -- was very different. The  
17 store itself was, you know -- everybody was a kindred spi --  
18 like, everybody was happy. Everybody was excited about the new  
19 manager that was in. Her name was Keta (phonetic throughout)  
20 Clark. She was an outside hire. And you know, they -- they  
21 were all happy and excited about the new things that were going  
22 to come of it.

23 So the environment was well, the -- you know, the  
24 conditions were not bad, and everybody was still learning the  
25 process, a fairly new staff. The store itself had not been



1 open for very long. So --

2 Q Let me stop you there.

3 A Um-hum.

4 Q When -- when had the store been -- when had the East  
5 Robinson store been opened?

6 A That --

7 MS. STANLEY: Objection. Lack of foundation.

8 THE WITNESS: That, I'm not sure of.

9 Q BY MS. POLITO: You're not sure of?

10 A Huh-uh.

11 Q So when you arrived and -- in the Buffalo market, you were  
12 aware that the East Robinson store was a fairly new store?

13 A Um-hum.

14 Q And how -- you have to answer, sorry, yes or no?

15 A Yes. Sorry.

16 Q How are you aware that it was a fairly new store?

17 A Well, if you looked at the store itself, everything,  
18 the -- the decor, everything was brand new. Some of the items  
19 hadn't even reached most stores. You know, whether it was the  
20 floors or the -- the layout of the store, everything, the  
21 counter itself, the design of the -- the counter for baristas  
22 was completely new. And so they -- they were still even going  
23 through, you know, I would say, new store growing pains, just  
24 figuring out, oh, all of a sudden that light doesn't work, so  
25 we have to call that in. Little things like that.

1 Q Do you know how long Ms. Clark had been the store manager  
2 upon your arrival?

3 A Upon my arrival, she had been there all but maybe a couple  
4 of weeks.

5 Q Do you know who the prior store manager was?

6 A I don't remember the name of the prior store manager.

7 Q Were there any other managers present at the East Robinson  
8 store along with you and Ms. Clark?

9 A Store managers? No.

10 Q Assistant store managers?

11 A At the time, no. Though Morgan Welling (phonetic  
12 throughout) that I trained later on might have eventually  
13 become an assistant store manager there, but it was just me,  
14 Keta, and the three people that I trained during that period.

15 Q And can you tell us the three people you trained during  
16 that period in the fall of 2021?

17 A Um-hum.

18 Q Who are they?

19 A I trained Chris Winnett, Fred (phonetic throughout) -- I  
20 forgot his last name -- and then Morgan Welling.

21 Q And what did you -- what was the purpose of training those  
22 individuals?

23 A I was just training them to be store managers inside of  
24 the market.

25 Q Are you aware of whether or not there were any renovations

1 at the East Robinson store in October of 2021?

2 A No, I wasn't aware of any store renovations during that  
3 period.

4 Q What were the training procedures for newly hired baristas  
5 at the East Robinson store in September of 2021 when you  
6 arrived?

7 A For newly hired baristas, they were all going through the  
8 training center. But that was much like every other store in  
9 the market during that period because of the staffing shortages  
10 that we had during that time. Because there were so many  
11 stores in need, all of them were going through the training  
12 center. And based -- because of that is because of the -- as  
13 people were coming in into the training center, they had to  
14 figure out where and what location would be best -- a best fit  
15 in terms of closest to the barista and where they lived. So  
16 they just popped everybody through the training center.

17 Q At some point in time, did the East Robinson store become  
18 a training --

19 A Um-hum.

20 Q -- store?

21 A Yeah, it was a -- it was a great environment for -- for  
22 the -- for the store itself because we had me there training  
23 store managers. Keta was fairly new and was really excited.  
24 And we had enough staff for us to be able to train  
25 consistently.

1 Q Do you know when the store became a training store?

2 A I think it was a couple of months in or one to two months  
3 in of me coming to Buffalo.

4 Q While East Robinson was a training store, was it closed to  
5 the public?

6 A No, it was not closed to the public. The East Robinson  
7 never closed during that period.

8 Q Who did the training of the baristas during the time that  
9 the East Robinson store was a training store?

10 A All of the -- any of the barista trainers or whoever  
11 wanted to become a barista trainer during that period. But  
12 because there wasn't that many barista trainers, it was done  
13 also by the shift supervisors, which we generally don't do.

14 Q Why do you not generally have the shift supervisors also  
15 serve as a barista trainer?

16 A The barista trainers is mostly a developmental, I would  
17 say, position, if you want to call it that. It's -- it's a  
18 tool that we use to develop baristas so they can coach and  
19 teach, so they can develop into their new role as shift  
20 supervisor. So we tend to hold it for that, but it's not  
21 exclusive to that. We've -- in order for us to be able to  
22 staff and also take other baristas through that training, we  
23 use shift supervisors as well.

24 Q And were the individual partners that served as barista  
25 trainers --

1 A Um-hum.

2 Q -- at the East Robinson store paid for their training, to  
3 your knowledge?

4 A Yeah, every barista -- barista trainer received a bonus  
5 for every single trainee.

6 Q Are you aware of whether or not any manager at the East  
7 Robinson store prevented a pro-union employee from working as a  
8 barista trainer?

9 A No.

10 Q Are you aware of any manager at the East Robinson store  
11 prohibiting any partner from talking about union activity?

12 A No.

13 Q Were there pro-union partners at the East Robinson store?

14 A We thought maybe there could be because some of them wore  
15 pins at times, but you couldn't really know.

16 Q And did you talk to any of those individuals about their  
17 union activity?

18 A No.

19 Q And for those partners that wore pins, were -- did anyone  
20 tell them that they weren't allowed to wear pins?

21 A No.

22 Q Are you aware of whether or not Ms. Clark prevented  
23 employ -- prevented partners from stores picking up shifts at  
24 the East Robinson store due to their pro-union stance?

25 A No, generally anybody that wanted to pick up a shift could

1 pick up a shift.

2 Q Were you involved in the discipline of any partners during  
3 your time at the East Robinson store?

4 A No, no disciplinary. I was mainly there to -- to train  
5 during that period. I was training the store managers.

6 Q Were you ever told to watch the partners and report on  
7 their union affiliation?

8 A No.

9 Q Were you aware of whether or not any other store support  
10 managers or -- or any other managers were told to watch the  
11 partners with respect to their union affiliation?

12 A No.

13 Q Are you aware of whether or not operational hours at the  
14 East Robinson store were reduced in January of 2022?

15 A No, not that I know of. The -- the only reasons for that  
16 would have been maybe weather.

17 Q When did you leave the East Robinson store?

18 A I left at the end of January.

19 Q Of 2022?

20 A Of 2022, that's correct.

21 Q And did -- where did you return to?

22 A Oh, I just returned back to Houston, back to my store that  
23 I was a store manager in.

24 Q During the time that you were at the East Robinson store,  
25 did you permit shift supervisors to close a channel?

1 A Never.

2 Q Are shift supervisors, in your 19-year experience at  
3 Starbucks, allowed to close a channel?

4 A No, they would have to get it from the district manager,  
5 but even then, you know, there's some chan -- there are some  
6 channels they can't even close themselves.

7 Q What channels are those that they would not be able to  
8 close?

9 A The MOP, the mobile order and pay.

10 Q And why would they not be able to close that?

11 A All of that's done through email.

12 Q Are you familiar with a partner by the name of Victoria  
13 Conklin?

14 A Yes, I'm aware of Victoria.

15 Q And did you work with her?

16 A Yeah.

17 Q Was she allowed to train baristas during the time that  
18 East Robinson was a training store?

19 A Yes, she was.

20 Q And how do you know that?

21 A I asked her. So I asked her to train. She was excited  
22 about it, so she -- she asked me to -- to -- if she could train  
23 some partners. And we thought it was a good idea to even allow  
24 the shift supervisors to do maybe one or two baristas each  
25 to -- to work on their coaching skills.

1 MS. POLITO: I have nothing further for this witness,  
2 Judge.

3 **CROSS-EXAMINATION**

4 Q BY MS. STANLEY: Hi, Mr. Morales.

5 A Hi.

6 Q When in September of 2021, did you arrive in Buffalo?

7 A I remember it was either the 25th or 26th.

8 Q And how long was it before you were actually assigned to  
9 the East Robinson store?

10 A I couldn't say. I think it was probably one to two weeks.

11 Q So you weren't actually at East Robinson in September of  
12 2021?

13 A In -- no, and I wasn't until probably the first week of  
14 October.

15 Q Between the time that you arrived in Buffalo and you were  
16 assigned to East Robinson, about how many Buffalo-area stores  
17 do you remember visiting?

18 A Three or four.

19 Q How many occasions did you visit those stores?

20 A It was probably -- each store probably one to two times.  
21 Um-hum. For long periods of time.

22 Q How long of a period of time?

23 A Like whole entire shifts, anywhere from 8 to 12 hours.

24 Q And you're currently a store manager in Houston?

25 A Um-hum.





1 Q Sorry. You have to say yes or no.

2 A Yes. I apologize.

3 Q So you finished your 90-day time-limited assignment as a  
4 district manager?

5 A That is correct.

6 Q Would a barista trainer have priority for doing training  
7 over a shift supervisor at East Robinson?

8 A I guess, rephrase the question.

9 Q If a barista trainer was available --

10 A Uh-huh.

11 Q -- would that person be given a training instead of a  
12 shift supervisor?

13 A Thank you for asking. So yes, depending on -- depending  
14 on what the need is. So generally, we -- like I said, it's  
15 always a developmental tool, so we'd prefer for a barista  
16 trainer to do it. But in some cases, I know that we've even  
17 decided to let supervisors do it to work on their coaching.

18 But supervisors get paid a little bit more, so it's -- at  
19 the same time. So it's -- it's one of those things where it  
20 doesn't change their pay or anything, so generally speaking, we  
21 get barista trainers to do it.

22 Q Were there any other support managers at East Robinson  
23 during the time you were there?

24 A There was one for maybe one or two weeks by the name of  
25 Amber, but she then -- she wasn't there for very long.

1 Q Did you ever perform a similar support manager role in  
2 other locations?

3 MS. POLITO: Objection. Asked and answered.

4 JUDGE ROSAS: Overruled.

5 THE WITNESS: In other locations in Buffalo?

6 Q BY MS. STANLEY: No, what I mean is, were you ever -- did  
7 you ever travel outside of your home location, kind of Texas  
8 location, to act as a support manager in the same way that you  
9 did in Buffalo?

10 A Oh, no, I mean, I've heard of other store -- support store  
11 managers, but you know, it's kind of like my DMTLA, they -- you  
12 know, they ask in the -- during -- during this period if it  
13 would be something that I would be willing to do for my  
14 development, and I said yes.

15 MS. STANLEY: I have nothing further.

16 MR. HAYES: No questions.

17 JUDGE ROSAS: I just have one question. When you refer to  
18 a 90-day assignment, is that the same as the 89-day assignment?

19 THE WITNESS: Probably.

20 JUDGE ROSAS: Okay.

21 MS. POLITO: Is -- I can try to ask Roger --

22 JUDGE ROSAS: We're not talking about another provision or  
23 another program?

24 MS. POLITO: No. Correct, Judge.

25 JUDGE ROSAS: Just so the record will be clear, so --

1 THE WITNESS: Okay. Yeah, TLA. Um-hum.

2 JUDGE ROSAS: Okay. It's approximately 90?

3 THE WITNESS: Right.

4 JUDGE ROSAS: Formally an 89?

5 **REDIRECT EXAMINATION**

6 Q BY MS. POLITO: Mr. Morales, the time-limited that you  
7 referred to earlier, do you know the length of that time-  
8 limited assignment?

9 A It's 90 days, or it could be shorter. And if it were to  
10 extend it, it would have to -- it would be -- start an entire  
11 new process.

12 Q Thank you.

13 A Um-hum.

14 MS. POLITO: Nothing further, Judge.

15 JUDGE ROSAS: Okay. Sir, you're excused. Your testimony  
16 is complete. Do not discuss your testimony with anyone until  
17 you're advised otherwise by counsel. All right?

18 THE WITNESS: I appreciate it. Thank you.

19 JUDGE ROSAS: Have a good day.

20 Off the record.

21 (Off the record at 2:22 p.m.)

22 JUDGE ROSAS: Next witness?

23 MS. POLITO: Your Honor, Respondent calls Katie Spinola  
24 (sic) to the stand.

25 JUDGE ROSAS: Raise your right hand.

1 Whereupon,

2 **KATIE SPICOLA**

3 having been duly sworn, was called as a witness herein and was  
4 examined and testified as follows:

5 JUDGE ROSAS: All right. Why don't you have a seat?  
6 State and spell your name and provide us with an address.

7 THE WITNESS: Do you want my full name?

8 JUDGE ROSAS: Yes.

9 THE WITNESS: So my name is Kathryn Spicola,  
10 K-A-T-H-R-Y-N. Okay. S-P-I-C-O-L-A. Better? Okay. Sorry.

11 **DIRECT EXAMINATION**

12 Q BY MS. POLITO: And you can give your work address.

13 A No, nope. Don't know it.

14 MS. POLITO: Okay.

15 JUDGE ROSAS: Where do you resi -- you reside in what  
16 state?

17 THE WITNESS: I can do my ho -- Nor -- New York. I can  
18 get you my home address if you'd like.

19 MS. POLITO: No, just for the record, Ms. Spicola, we're  
20 not giving home addresses.

21 THE WITNESS: Okay.

22 MS. POLITO: So Judge, we would accept a subpoena if the  
23 other side wants to serve a subpoena --

24 THE WITNESS: Okay.

25 MS. POLITO: -- on this particular witness.



1 JUDGE ROSAS: Do you -- do you live in this region?

2 MS. POLITO: Yes.

3 THE WITNESS: I do. I --

4 JUDGE ROSAS: Okay. All right.

5 THE WITNESS: -- just don't know the whole address for  
6 Camp Road. I'm so sorry.

7 MS. POLITO: That's okay.

8 JUDGE ROSAS: There's New York City, and then there's  
9 Buffalo.

10 MS. POLITO: That's right. Or Rochester, Judge.

11 THE WITNESS: I mean, I -- I know part of it. I just  
12 don't know the ZIP or anything like that. Okay.

13 MS. POLITO: No worries.

14 THE WITNESS: Sorry.

15 Q BY MS. POLITO: Ms. Spicola, you told us that you reside  
16 in Buffalo, New York. Where do you work?

17 A At the Starbucks on Camp Road.

18 Q Okay. And how long have you worked at the Starbucks on  
19 Camp Road?

20 A Since it opened in April of 2021.

21 Q And what is your job title at this Starbucks on Camp Road?

22 A I'm a shift supervisor.

23 Q And how long have you been a shift supervisor?

24 A Approximately a little over ten years. I'm not sure of  
25 the exact date.



1 Q Where -- where did you work prior to working at Camp Road?

2 A I was at the Starbucks on McKinley Parkway. I can do the  
3 whole address for that one, guys.

4 Q That's okay. And did the Camp Road store open in April of  
5 2021?

6 A Yes, it opened April 1st, so it guess it was slightly  
7 before then because we set up. So it would have been the end  
8 of March.

9 Q I'm going to turn your attention to the fall of 2021, if  
10 that's okay. During the time in -- from September through  
11 December of 2021, did you witness any manager at the Camp Road  
12 store tell any partner not to engage in discussions about union  
13 activity?

14 A No, never.

15 Q Did you witness partners expressing support for the Union?

16 A Yes.

17 Q Did you witness partners wearing pins?

18 A Oh, yeah, absolutely.

19 Q Did you witness partners leaving literature in the  
20 breakroom?

21 A Yes.

22 Q Did you hear partners talking amongst themselves in  
23 support of the Union?

24 A Yes.

25 Q Did you ever feel like any of the managers that were at the



1 Camp Road location prohibit you from talking about union  
2 support one way or the other?

3 A No.

4 Q How many hours did you typically work as a shift  
5 supervisor?

6 A Approximately 35 each week.

7 Q And do you have an assigned shift?

8 A Usually I open.

9 Q And what are those hours?

10 A So usually I work -- right now it's 5 to 1, 5 to 1:30. At  
11 that time, I believe we were opening slightly earlier, so it  
12 was 4:30 to 1.

13 Q Were you aware of any union activity in the larger Buffalo  
14 market in the fall of 2021?

15 A I knew that they were looking to do union cards and things  
16 like that.

17 Q Did --

18 A I believe there may have been protests and -- I don't know  
19 if "protests" is the wrong word, but.

20 Q Did any of those activities that occurred in the larger  
21 Buffalo market impact your ability to render a vote in the Camp  
22 Road election?

23 A No.

24 Q Did you vote in the Camp Road election?

25 A I did.



1 Q Did anyone -- any managers make any threats to you to vote  
2 one way or the other in the Camp Road election?

3 A No.

4 Q With respect to your testimony today, were you given any  
5 promises for testifying today?

6 A No.

7 Q Were you made any threats to testify today?

8 A No.

9 Q During the fall of 2021, there were store support managers  
10 in the store at Camp Road?

11 A Yeah, we had several.

12 Q Did any of those individuals -- did -- did you observe any  
13 of those store support managers telling any of the partners  
14 at -- not to talk about union activity?

15 A No.

16 Q Did you hear them make any threats against any of the  
17 partners?

18 A No.

19 Q Did you hear them make any promises to any of the  
20 partners?

21 A No.

22 MS. POLITO: Nothing further, Judge.

23 **CROSS-EXAMINATION**

24 Q BY MS. STANLEY: Hi, Ms. Spicola. I'm Alicia Pender-  
25 Stanley. I'm the counsel for the General Counsel here. I just



1 have a couple of questions for you.

2 A Yeah, that's fine.

3 Q Who asked you to come testify today?

4 A I had originally -- when I had first heard about this,  
5 that there was an objection filed, which I only heard about  
6 recently. I was a little bit annoyed about -- because I was  
7 like, no, we voted. It was -- everything was good. I thought  
8 we -- you know, we made our choice. Everybody got to have  
9 their say. And I was like, can I -- I had asked Tiffany who's  
10 my district manager right now. I was like, is there any way I  
11 can, like, tell the Union or tell the Labor Relations Board how  
12 I feel? So then she had come back later, a few days, a week  
13 later, and she said that this was going on and asked me if I  
14 would be interested in meeting with Jackie, and I said yes.

15 Q What -- when did you first meet with Jackie?

16 A On Saturday.

17 Q Of this -- this past Saturday?

18 A This past Saturday.

19 Q Okay. What were you told was the purpose of that meeting?

20 A She wanted to just see what my experience had been with  
21 having the election and everything at Camp Road.

22 Q And was it just you and Jackie, or was there someone else  
23 there?

24 A Just me and Jackie.

25 Q Did Jackie tell you that your participation was voluntary?



1 A Yes.

2 Q What did she say?

3 A She had a whole thing for me to read and said, you know,  
4 that it was just us talking, but it wasn't privileged. And you  
5 know, nothing I said would make any difference, and even if we  
6 went through the whole meeting, I didn't have to come if I  
7 changed my mind.

8 Q She told you that you wouldn't be subject to any reprisals  
9 if you did change your mind and didn't want to testify?

10 A I believe so, yes. I don't recall the exact wording, but  
11 I knew it was my choice, and nothing I did or didn't say would  
12 make any difference.

13 MS. STANLEY: I have nothing further.

14 MR. HAYES: No questions.

15 MS. POLITO: Nothing further, Judge.

16 JUDGE ROSAS: Counsel, do you have -- well, assume you  
17 have a Johnnie's Poultry form?

18 MS. POLITO: Yes, I do, Judge.

19 JUDGE ROSAS: That should go into evidence. I don't want  
20 to have any gaps here, have to leap to infer. Let's -- this  
21 is -- this is an issue before the Board, and it's not clear at  
22 the moment what the exact standard is.

23 MS. POLITO: That's fine, Judge. I don't know what  
24 exhibit number we're at. Can you mark that, please?

25 (Judge, Report, Counsel confer)

1 MS. POLITO: I just wanted to make sure the next exhibit  
2 is not starting at 285. Give me one second, Judge. All right.  
3 We're going to mark this 285.

4 **(Respondent Exhibit Number 285 Marked for Identification)**

5 MS. POLITO: And if -- Judge, if I could approach the  
6 witness?

7 JUDGE ROSAS: (No verbal response).

8 MS. POLITO: May I approach, Your Honor?

9 **REDIRECT EXAMINATION**

10 Q BY MS. POLITO: I'm showing you what's been marked as  
11 Exhibit 285. Do you recognize that document?

12 A Yeah, that's the form that you gave me to read over and  
13 sign.

14 Q And -- and Katie, you and I made some changes to that form  
15 because it was the incorrect form; is that correct?

16 A Correct.

17 Q And when I say incorrect, I mean it was referencing  
18 something other than Starbucks?

19 A Something completely different, yes.

20 Q And we went through those specific paragraphs on this  
21 form; is that correct?

22 A Yes.

23 Q And we -- and you signed it, and we initialed the changes  
24 on there?

25 A Yes, I initialed every -- everything that we changed.

1 Q And as you testified earlier, your testimony here today  
2 was completely voluntary?

3 A Yes.

4 MS. POLITO: Thank you, Judge. I have nothing further.

5 MS. STANLEY: Nothing further.

6 MR. HAYES: No questions.

7 JUDGE ROSAS: Okay.

8 THE WITNESS: What do I do with this?

9 MS. POLITO: I'll take it.

10 THE WITNESS: Okay.

11 MS. POLITO: No worries.

12 THE WITNESS: Thank you, guys.

13 MS. POLITO: Thank you.

14 Judge, if I could just have two minutes? We have another  
15 witness ready to go.

16 JUDGE ROSAS: Off the record.

17 (Off the record at 2:34 p.m.)

18 MS. POLITO: Your Honor, thank you. At this point,  
19 Respondent would like to admit into evidence Exhibit Number  
20 285.

21 JUDGE ROSAS: Any objections?

22 MS. STANLEY: No objection.

23 MR. HAYES: No objection.

24 JUDGE ROSAS: Respondent's 285 is received.

25 **(Respondent Exhibit Number 285 Received into Evidence)**

1 MS. POLITO: Thank you, Your Honor.

2 JUDGE ROSAS: Okay. Next witness?

3 MS. POLITO: Your Honor, Respondent calls Josie Havens to  
4 the stand.

5 JUDGE ROSAS: Raise your right hand.

6 Whereupon,

7 **JOSIE HAVENS**

8 having been duly sworn, was called as a witness herein and was  
9 examined and testified as follows:

10 JUDGE ROSAS: Okay. State and spell your name and provide  
11 us with an address.

12 THE WITNESS: My name is Josie Havens, J-O-S-I-E  
13 H-A-V-E-N-S. And the address would be 300 Spectrum Avenue in  
14 Gaithersburg, Maryland 20874.

15 **DIRECT EXAMINATION**

16 Q BY MS. POLITO: Is that address your home address or your  
17 work address?

18 A That's my work address.

19 Q And Ms. Havens, by whom are you employed?

20 A By Starbucks Coffee Company.

21 Q And how long have you been employed by Starbucks Coffee  
22 Company?

23 A Almost ten years.

24 Q And can you tell us what your first position was with  
25 Starbucks in your trajectory to where you are now?



1 A I started as a barista in Rockville, Maryland in 2012 and  
2 moved up to a shift supervisor position, then assistant store  
3 manager, and now store manager.

4 Q How long were you an assistant store manager?

5 A I was an assistant store manager for one year.

6 Q And what year did you become a store manager?

7 A It would be, I believe, 2016.

8 Q And what store did you become a store manager of?

9 A My first store was Burnt Mills in Silver Spring.

10 Q How many stores were you store manager or prior to March  
11 of 2022?

12 A Five.

13 Q Were they all in the Maryland area?

14 A Yes, they are.

15 Q And did there come a time when you were asked to support  
16 the Buffalo market?

17 A No, I actually applied for that position.

18 Q And how -- how did you apply for that position?

19 A Starbucks.com/careers, there was a job posting listed on  
20 the website.

21 Q And what was the job posting for?

22 A Store manager support.

23 Q And what was the length of that assignment?

24 A It was a time-limited assignment for three months.

25 Q And when did you find out that you had been approved for



1     that position?

2     A     It would have been, I believe, the second week in March of  
3     2022.

4     Q     And when did you arrive in Buffalo?

5     A     The last week in March.

6     Q     And were you assigned to a particular store?

7     A     Yes, the East Robinson location.

8     Q     Is that what you applied for, or was it a application for  
9     a broader position?

10    A     It was just for the market of Buffalo.

11    Q     And when did you find out you would be working at the East  
12    Robinson store?

13    A     It was, I believe, a week before my arrival.

14    Q     And how did you find out that you would be working at the  
15    East Robinson store?

16    A     I spoke with the district manager at the time, which was  
17    Tracie.

18    Q     Do you know Tracie's last name?

19    A     I could never pronounce it. I'm so sorry.

20    Q     How long did you work at the East Robinson store?

21    A     I was there for about three and a half months.

22    Q     And because you were there for longer than three months,  
23    how did that impact the TLA?

24    A     It didn't really impact it at all. It was only a week  
25    longer than what was listed on my original document.

1 Q And -- and did you have to get permission or approval to  
2 extend beyond the three months?

3 A Yeah, I did some -- both the district manager at the time,  
4 it was Mikaela as well as the district manager in my home  
5 market.

6 Q What were your -- what was your title here in Buffalo?

7 A Store manager support.

8 Q And what were your responsibilities?

9 A Well, originally the position started out with me helping  
10 support a newly supported store manager, Keta Clark. But very  
11 quickly into my time here, she had left the company. So took  
12 on more of a store manager role for East Robinson.

13 Q Did you ever work alongside Ms. Clark?

14 A I believe we both were at the store for roughly three  
15 weeks, but during some of that time, she was on a leave of  
16 absence.

17 Q Who were the other store managers or store support  
18 managers at the East Robinson store while you were working  
19 there, starting in March of 2022?

20 A The first week that I was there, Liz Poole and Keta Clark  
21 were both at that location. The next week, just Keta Clark was  
22 there. And then by the third week, she was on a leave of  
23 absence.

24 Q Do you know why Ms. Poole was no longer at the East  
25 Robinson location?



1 A She was only there temporarily while her store was being  
2 remodeled. So her store had reopened.

3 Q And what store was she at? Do you know?

4 A Niagara Falls Boulevard.

5 Q And once Ms. Clark went out on a leave of absence, did you  
6 have any other managers supporting you at the East Robinson  
7 location?

8 A No, no, they didn't, now.

9 Q Were there any assistant store managers?

10 A No.

11 Q Did you have shift supervisors?

12 A Yes, we did.

13 Q About how many shift supervisor did you have?

14 A I believe we had five.

15 Q Do you know who they -- as you sit here today, do you  
16 recall who they were?

17 A I can definitely recall the majority of them. That would  
18 be Victoria Conklin, Denesia Stewart (phonetic throughout),  
19 Rokhya Cisse, Julia -- I don't remember her last name, Kayla,  
20 Beth Royer (phonetic throughout). I believe that was all of  
21 them, the ones that I recall.

22 Q What were your job responsibilities as store manager of  
23 the East Robinson store?

24 A My job would be to remove obstacles in order to make the  
25 baristas and shift supervisor be able to do their job. That

1 would include, you know, writing schedules, making sure that  
2 the store has the product and everything that it needs in order  
3 to run. I would solve problems in the moment to best support  
4 the partners. I would make sure that standards and procedures  
5 are being followed and hold partner accountable to their job  
6 roles.

7 Q Now, you mentioned a Victoria Conklin. Were you involved  
8 in any disciplinary action involving Ms. Conklin?

9 A Yes, I was.

10 Q And what was that?

11 A I had given her final corrective action for safety and  
12 security violations as well as her separation notice for time  
13 in attendance.

14 Q And when you gave her those corrective actions, did you  
15 look at her personnel file?

16 A Yes, I did.

17 Q And what was in her personnel file?

18 A She had corrective actions previously given to her, a  
19 documented coaching and a written warning, if I remember  
20 correctly.

21 Q If you can turn over the documents that are in front of  
22 you and look at Respondent Exhibit Number 294? Do you -- do  
23 you recognize that document?

24 A Yes, I do.

25 Q And how do you recognize that document?



1 A This is the document within Victoria's file that was given  
2 to her by a previous store manager.

3 Q And -- and what did you do with that document?

4 A The document just sits in her personnel file and then can  
5 be used in order to determine what further corrective action  
6 would be given in different situations. However, this one is  
7 from 2018, so it doesn't have as much leeway on things that  
8 happen now.

9 Q So tell -- tell us about that, since it's from 2018.

10 A Okay.

11 Q Does it still stay in the partner's personnel file?

12 A Yeah, absolutely.

13 Q And -- and is there some type of policy with respect to  
14 how far back you'd look in a personnel file to see if a partner  
15 has been disciplined?

16 A We'll -- we'll look at their file in general just for a  
17 look of, like, trends over -- if -- if it's longer than six  
18 months ago, it carries less weight, obviously, than a  
19 corrective action that was given last week or sometime more  
20 recent.

21 Q And to your knowledge, is Exhibit 294 maintained within  
22 Ms. Conklin's personnel file?

23 A Yes.

24 MS. POLITO: Your Honor, I'd like to admit into evidence  
25 Respondent's Exhibit 294.

1 MS. STANLEY: I object, Your Honor, for a few reasons.  
2 First of all, this witness was not present when this was  
3 prepared. Or she -- more importantly, there's no allegation in  
4 the complaint that Ms. Conklin was unlawfully disciplined. In  
5 fact, her discharge is the subject of another case that I think  
6 is going to be litigated in the future. So I think it's  
7 inappropriate to introduce documents in this case that lead to  
8 her discharge, especially where there's no allegation in this  
9 complaint that she was unlawfully disciplined.

10 JUDGE ROSAS: Hold on one second.

11 Can you step outside for a minute?

12 THE WITNESS: Sure.

13 JUDGE ROSAS: I'll tell you when to come back in.

14 So her testimony is that Ms. Conklin was disciplined. And  
15 she was discharged, right, for time in attendance; is that  
16 correct? When she was there?

17 MS. POLITO: Correct. And then she looked at her  
18 personnel file --

19 JUDGE ROSAS: Okay.

20 MS. POLITO: -- as part of making a determination, Judge.

21 JUDGE ROSAS: And you asked her about this document.

22 MS. POLITO: Correct, as part of her personnel file.

23 JUDGE ROSAS: That she looked at in the file?

24 MS. POLITO: Correct.

25 JUDGE ROSAS: And then she explained the weight, if any,

1 or consideration that they give based on how old these things  
2 are.

3 MS. POLITO: There's another document, Judge, that we're  
4 probably going to have the same discussion. R-293, which is  
5 another corrective action for Ms. Conklin that was in her  
6 personnel file.

7 JUDGE ROSAS: And you expect that this witness would say  
8 what in connection with this?

9 MS. POLITO: The same thing. It's part of her personnel  
10 file. She looked at a record before making a determination as  
11 to her disciplinary action, which is what she's already  
12 testified to, Judge.

13 JUDGE ROSAS: Okay. Now, so the General Counsel stated  
14 that there's a charge relating to this personnel action that  
15 transpired in 2002?

16 MS. STANLEY: The -- the --

17 MS. POLITO: No.

18 MS. STANLEY: The -- the witness was -- Ms. Conklin was  
19 discharged, I believe, in -- within the past two months. And I  
20 know that there --

21 JUDGE ROSAS: We don't know that yet, right?

22 MS. STANLEY: Well, we don't because it's not relevant to  
23 this case.

24 JUDGE ROSAS: No, no, no, it's not in the record yet?

25 MS. STANLEY: It -- I think that --

1 JUDGE ROSAS: When she was discharged?

2 MS. STANLEY: I think when Ms. Conklin testified, she did  
3 say the date of her discharge.

4 JUDGE ROSAS: Okay.

5 MS. POLITO: But --

6 MR. BALSAM: She testified that she was discharged. I  
7 don't have the exact date off the top of my head.

8 MS. STANLEY: Right.

9 JUDGE ROSAS: She testified that she was discharged when?

10 MS. POLITO: I don't know if she specified the date,  
11 Judge --

12 JUDGE ROSAS: Well --

13 MS. POLITO: -- but she did testify that she was  
14 discharged. We're not trying to litigate --

15 JUDGE ROSAS: What are you offering it for?

16 MS. POLITO: We're offering it for this witness' testimony  
17 that she reviewed the personnel file, that she reviewed prior  
18 disciplinary records that were provided to Ms. Conklin as part  
19 of a decision to issue her warnings. And it demonstrates,  
20 again, just like earlier, that pre- and post-union, she  
21 received disciplinary matters or -- or corrective action  
22 notices.

23 JUDGE ROSAS: But she's not --

24 MS. POLITO: We're not trying to litigate this --

25 JUDGE ROSAS: She's not a discriminatee in this case,

1 right?

2 MS. STANLEY: No.

3 MS. POLITO: Well, she does allege in this case that she  
4 was refused to -- she was refused to leave early to handle an  
5 emergency. So she does make an allegation in this case about  
6 how she was treated.

7 MS. STANLEY: Right. There are two allegations relating  
8 to Victoria Conklin. One is that she was not allowed to leave  
9 the store early in the case of --

10 JUDGE ROSAS: Wait. Hold on. Hold on. When you refer to  
11 allegations, allegations where?

12 MS. STANLEY: In the complaint. In this complaint in this  
13 case.

14 JUDGE ROSAS: In this case? Okay.

15 MS. STANLEY: Right. Two relating to Ms. Conklin: one  
16 about refusing her to leave early, one about interrogating her  
17 about protected activity. There are no allegations about any  
18 discipline issued to her, and there's no allegation in this  
19 complaint about her discharge. And -- and I believe that --  
20 that the -- the Region has recently issued a separate complaint  
21 that is not consolidated with this complaint related to Ms.  
22 Conklin's discharge.

23 MR. HAYES: That's correct.

24 MS. POLITO: But Judge, she has in this complaint, raised  
25 issued with respect to the way that she was treated, so it's

1 perfectly appropriate for us to put on a witness to talk about  
2 her disciplinary actions both pre and post her union support.

3 JUDGE ROSAS: Okay.

4 MS. POLITO: Also --

5 JUDGE ROSAS: Hold on. Hold on.

6 MS. POLITO: Go ahead.

7 JUDGE ROSAS: Let's take the pre. Let's take the pre.

8 MS. POLITO: Yeah.

9 JUDGE ROSAS: I think the pre is one thing, and wait.  
10 They're both actually pre-2022.

11 MS. STANLEY: Right.

12 JUDGE ROSAS: Right?

13 MS. STANLEY: Yes.

14 JUDGE ROSAS: Okay. So General Counsel, why is this  
15 irrelevant to --

16 MS. STANLEY: First because --

17 JUDGE ROSAS: -- the charges that you've articulated in  
18 the complaint for Ms. Conklin?

19 MS. STANLEY: First -- first because, Your Honor, there is  
20 no allegation that Ms. Conklin was disciplined other than her  
21 discharge, which is not in the complaint. So there's no  
22 allegation in this complaint of any discipline relating to her,  
23 so how she was treated pre- and post-complaint in terms of  
24 discipline issued is irrelevant because there's no allegation  
25 that she was disciplined unlawfully in this case.



1 JUDGE ROSAS: All right. Hold on one second. Let me --  
2 okay. So the first allegation is in paragraph 8, subdivision  
3 K?

4 MS. STANLEY: Yes.

5 JUDGE ROSAS: Alleging an interrogation about protected,  
6 concerted and union activity. The other allegation is at --

7 MS. STANLEY: 13(w).

8 JUDGE ROSAS: -- 13(w), that in March of '22, Clark  
9 refused to allow Conklin to leave the store early or close the  
10 store early to handle an emergency.

11 MS. POLITO: Judge, if I may?

12 JUDGE ROSAS: Now, neither of those are discipline, right?

13 MS. POLITO: She also testified when she was on the stand  
14 about dress code and time in attendance.

15 MS. STANLEY: But there are no disciplinary allegations  
16 relating to those.

17 JUDGE ROSAS: About the changes to -- or the enforcement  
18 of those?

19 MS. POLITO: Correct, Judge. And it's also comparator  
20 information with respect to how -- at issue in this case, not  
21 just relating to Ms. Conklin, but as Mr. Balsam discussed  
22 earlier, at issue in the case is how Starbucks treated their  
23 partners pre and post --

24 JUDGE ROSAS: Hold on. Hold on. So I don't lose these  
25 thoughts, my stream. She testified about being spoken

1 individually about dress code?

2 MS. POLITO: Yes.

3 MS. STANLEY: Yes. Neither be --

4 JUDGE ROSAS: Then -- then it intimates that she's being  
5 picked on, right? I mean, obviously the General Counsel is  
6 alleging that there is this broad, you know --

7 MS. STANLEY: Br -- right. Broad, stricter enforcement,  
8 right.

9 JUDGE ROSAS: -- crackdown on -- on -- on the dress code.

10 MS. STANLEY: not with relation to a specific employee,  
11 certainly not specific to Ms. Conklin. And I would -- I mean,  
12 there -- we've seen in the other exhibits that have come in  
13 earlier today, corrective action forms relating to dress code.  
14 That's not what these are, and there are none relating to Ms.  
15 Conklin that I'm aware of if they are -- they might be in the  
16 record. I don't know. But these wouldn't be comparators to  
17 those.

18 JUDGE ROSAS: So Respondent, my main problem with  
19 admitting this is that I don't want this to have -- based upon  
20 the record that I'm aware of, you're -- you're -- you're  
21 basically introducing it through this witness to show a custom  
22 practice of managers looking at the contents of a personnel  
23 file, including priors in order to arrive at the disciplinary  
24 action that they take, but not necessarily this witness, just  
25 applicability in general; is that right?

1 MS. POLITO: Not -- not quite, Judge. This witness  
2 testified that she did in fact look in her personnel file  
3 before she determined what the cor -- appropriate current  
4 corrective action is --

5 JUDGE ROSAS: For Conklin?

6 MS. POLITO: For Conklin, right.

7 JUDGE ROSAS: And that that's -- that's her custom of  
8 practice of doing that?

9 MS. POLITO: That's correct, Judge.

10 JUDGE ROSAS: And so therefore, that should be the  
11 practice that others follow as well? Is that the implication?

12 MS. POLITO: That's -- A, that's a practice that was  
13 followed here with respect to Ms. Conklin, and that these items  
14 from her personnel file were all issued pre-union activities.  
15 That's -- that's one reason, Judge, for the comparator  
16 information. Also, Ms. Conklin testified, and I think opened  
17 the door with respect to her saying that she was being treated  
18 differently than -- by Ms. Clark. She speci -- I -- and I  
19 believe she said something to that effect on the stand about  
20 how she was being singled out by Ms. Clark. And they talked to  
21 her about her dress code, and -- and that she was singled out  
22 by not being allowed to leave work that day. And the -- her  
23 personnel file actually demonstrates that she has prior  
24 disciplinary record which counters the argument that she was  
25 being singled out.

1 MS. STANLEY: I --

2 MS. POLITO: It's not being offered for the -- I  
3 understand that there's separate litigation ongoing. That --  
4 that has nothing to do with why it's being offered in this  
5 particular case. It's also, Judge, secondarily -- not only is  
6 it what this witness looked at when she gave the testimony  
7 (sic) to Ms. Conklin, so it's appropriate to introduce into  
8 evidence what she looked at. It's also comparator information  
9 that we discussed earlier with Mr. Balsam, with his witnesses.

10 MS. STANLEY: I -- I -- I -- I really -- I think the --  
11 the witness testified that the reason she looked at these  
12 documents was -- and when she was looking at Ms. Conklin's  
13 personnel file in order to -- and then subsequently terminated  
14 her, which is the subject of another -- of other pending  
15 litigation. So I don't think the -- I think these are not  
16 appropriate for thi -- for this case. I really do.

17 I -- I -- I don't think they're comparative. They don't  
18 have anything to do with any of the allegations relating to Ms.  
19 Conklin. They don't even -- I don't -- neither of them even  
20 are comparators for any of the actual allegations in the case,  
21 right. I mean, one is about a relationship between partners.  
22 There's no allegation that that -- there was any unlawful  
23 activity around that. The other is for ensuring the temp logs  
24 are filled out. There's no allegation about that. So they're  
25 not even really comparators to any of the alleged unlawful

1 activity in the complaint.

2 Plus, they go to pending litigation, and the -- this  
3 witness testified that the reason she looked at them -- she  
4 wasn't involved in either of these. They pre-dated her being  
5 in Buffalo. The reason she looked at -- at them was for the  
6 purposes of coming to the conclusion to terminate Ms. Conklin,  
7 which is the subject of another complaint.

8 JUDGE ROSAS: Before I move back over to relevance, tell  
9 me what the problem is with the fact that it's -- that it is or  
10 may be connected to other litigation. What is the problem  
11 there? It's not -- not that it's privileged or anything?

12 MS. STANLEY: No, no, no, I just -- I just think it's  
13 inappropriate. I think it -- it --

14 JUDGE ROSAS: I mean, the -- the -- so getting back to the  
15 Respondent. So -- so we'd have to look at the record to  
16 sustain -- to -- to verify that point that she testified that  
17 she was being picked on. So what -- what page of the  
18 transcript is that? Do we know?

19 MS. POLITO: I don't know, Judge. We'll have to look it  
20 up.

21 JUDGE ROSAS: Okay. We'll have to deal with this  
22 tomorrow. This is going to have to be re-dealt with once we  
23 establish that. We don't need to recall this witness for that  
24 purpose, right? I mean, what -- what else were you going to  
25 ask this witness?

1 MS. POLITO: I have other questions to ask her if you want  
2 to pause this, but -- but, Judge, Victoria Conklin testified.  
3 She testified as a witness. Her credibility is at issue by  
4 testifying as a witness. She testified that she was singled  
5 out. We all recall her testifying to that, while we don't have  
6 the specific testimony in front of us.

7 She also testified that she was not allowed to leave  
8 early. She testified that those activities were relating to  
9 her activities as a union member. And this witness, who came  
10 in in March of 2022 and was the acting store manager, should be  
11 allowed to testify about her discipline and what she looked at  
12 when she rendered her discipline. We're not submitting the  
13 actual termination notice. We're submitting the pre --

14 JUDGE ROSAS: When this witness issued her discipline  
15 that's not related to this case?

16 MS. POLITO: This witness related the discipline relating  
17 to her termination, but we're not introducing that into  
18 evidence. We're just introducing the prior information that  
19 was in her personnel file to demonstrate that she had a prior  
20 disciplinary record before she was affiliated with a union.  
21 We're not trying to litigate --

22 JUDGE ROSAS: What else would you be asking?

23 MS. POLITO: Just those questions, Judge. Really just  
24 those questions. Did you look at prior discipline, and is this  
25 the prior discipline that you looked at, and moving it into

1 evidence. Those two documents. That's it. Not the current  
2 termination documentation. It goes directly to whether or not  
3 she was treated differently because she was pro -- a pro-union  
4 supporter, and it demonstrates that she was disciplined before,  
5 and she wasn't treated any differently once when she became a  
6 vocal, pro-union supporter.

7 MS. STANLEY: I -- I really -- I really --

8 MS. POLITO: It's -- it's being introduced for that  
9 purpose only.

10 MS. STANLEY: I really disagree only because -- maybe if  
11 she had been disciplined post-expressing support for the Union,  
12 we'd -- I'd be in a different posture, but there's no  
13 allegation that she was disciplined after expressing support  
14 for the Union in this case.

15 JUDGE ROSAS: Okay. So you can ask the questions and --  
16 to be subject to be stricken. And if you can offer the exhibit  
17 through her. You can get all of the questions out you want,  
18 but we're going to have to find that hard testimony in the  
19 transcript. We'll deal with that tomorrow because it's one  
20 other thing.

21 So with respect to the practice of a supervisor who is  
22 disciplining a partner, looking at the history, the personnel  
23 history, right -- I mean, that's essentially what we're talking  
24 about -- you're -- you're seeking to apply that across the  
25 board? Do we not have that testimony with respect to the

1 actions that were applied to other partners by the people who  
2 took those actions?

3 MS. POLITO: All I'm doing right now, Judge -- Victoria  
4 Conklin testified. She testified that she was being treated  
5 differently because of her pro-union support. This particular  
6 witness was in the store, East Robinson store, in March of  
7 2022, gave Ms. Conklin discipline, looked at her file. All  
8 we're doing with this witness is demonstrating that in her  
9 personnel file, she had corrective action forms prior to any  
10 union activity. That's the sole purpose for which we're --

11 JUDGE ROSAS: So --

12 MS. POLITO: -- we are admitting that evidence.

13 JUDGE ROSAS: All right. So General Counsel, why  
14 shouldn't I receive this solely in the pool of, you know,  
15 corrective action previously his -- issued by the Respondent  
16 going back at, before, and after the relevant times in this  
17 complaint, as I've done with the others? Why wouldn't I  
18 receive it as other comparable discipline alleged by the  
19 Respondent --

20 MS. STANLEY: Sure.

21 JUDGE ROSAS: -- at least for that purpose?

22 MS. STANLEY: Sure. First of all, with regard to  
23 specifically Ms. Conklin, it's not comparable to anything that  
24 happened post --

25 JUDGE ROSAS: No, no, not respect to her, but --



1 MS. STANLEY: But -- right. With respect to her.

2 JUDGE ROSAS: -- with respect to the discriminatees.

3 MS. STANLEY: Respect to anyone -- anyone at all because  
4 neither of these disciplines is -- goes to anything that any of  
5 the discriminatees allege or we allege was done to them post-  
6 complaint. There's no allegation in the complaint that a  
7 discriminatee was unlawfully disciplined for failing to ensure  
8 the temperature log was filled out. There's no -- there's no  
9 allegation in the complaint that any discriminatee was  
10 unlawfully disciplined for having a relationship with another  
11 partner. They just -- they're not -- they're not, you know,  
12 compare -- there's nothing to compare them to.

13 MR. HAYES: Your Honor, if I may briefly -- the -- first  
14 of all, the Union joins in these objections as well. I -- you  
15 know, I just want to point out what you just described, Your  
16 Honor, as you know, the potential purpose for these is much  
17 more limited than -- than what the Respondent has described,  
18 which is something specific to the treatment of Victoria  
19 Conklin. If that's not a part of it, and if it's just in the  
20 same category as all of the other, you know, those hundred  
21 exhibits that we went through earlier today, and you're going  
22 to give them a certain amount of weight, that's a lot less  
23 objectionable than what Respondent is describing from the  
24 Union's perspective.

25 JUDGE ROSAS: So it -- it -- it -- it's going to be

1 received at least for that purpose.

2 **(Respondent Exhibit Number 294 Received into Evidence)**

3 JUDGE ROSAS: Let's get some clarification tomorrow.

4 Let's look at the record, and we can reargue this.

5 MS. STANLEY: Okay.

6 JUDGE ROSAS: Okay? But you can ask the --

7 MS. POLITO: Okay.

8 JUDGE ROSAS: -- the witness whatever --

9 MS. POLITO: I -- Judge, I would --

10 JUDGE ROSAS: -- questions you want.

11 And you have continuing objections with respect to any

12 questions relating to this document or these historical

13 transactions from 2018 and 2019. Okay?

14 MR. HAYES: Yes, Your Honor. Thank you.

15 **RESUMED DIRECT EXAMINATION**

16 Q BY MS. POLITO: Ms. Havens, when you issued discipline to  
17 Ms. Conklin, did you look at her personnel file?

18 A Yes. I did.

19 Q And looking at Exhibits Number 293 and 294, were those  
20 documents contained within her personnel file?

21 A Yes. They were.

22 Q And were both of those corrective action notices issued  
23 prior to August of 2021?

24 A Yes.

25 Q You did not issue those disciplinary actions?

1 A Correct. I did not.

2 Q But you reviewed them prior to determining what  
3 disciplinary action you would give to Ms. Conklin in 2022: is  
4 that correct?

5 A Yes. They didn't play a factor, though, in her corrective  
6 actions that I gave her.

7 Q And why didn't they play a factor?

8 A Because they were longer than six months ago.

9 Q And were these documents kept within the ordinary course  
10 of business at Starbucks?

11 A Yes.

12 MS. POLITO: Your Honor, I'd move 293 and 294 into  
13 evidence.

14 MS. STANLEY: I'm going to object for the reasons we  
15 discussed previously.

16 MR. HAYES: Same objections.

17 JUDGE ROSAS: All right. They'll be received -- they  
18 we're on the record, right?

19 MS. STANLEY: Yeah. I'm just wondering about 293.

20 MR. HAYES: It's 293 and 294.

21 JUDGE ROSAS: Okay. You finished stating your objections?

22 MS. STANLEY: Yes.

23 JUDGE ROSAS: And you offer?

24 MS. POLITO: Yes, Judge.

25 JUDGE ROSAS: Okay. So for the reasons I stated before,



1 I'm going to receive it for limited purposes at this point of  
2 the examples of the Respondent that they offered for comparable  
3 discipline. So I'm going to receive it for that purpose. And  
4 we'll revisit this when we have an opportunity to review the  
5 prior testimony in this case.

6 Okay. 293 and 204 are received.

7 **(Respondent Exhibit Number 293 and 294 Received into Evidence).**

8 Q BY MS. POLITO: Ms. Haven, when you were working in the  
9 Buffalo market starting at the end of March 2022, what was the  
10 policy with respect to who could make the decision to close a  
11 channel?

12 A That should be a decision made by the store manager and  
13 district manager together.

14 Q At the East Robinson location, were shift supervisors  
15 allowed to close cafes?

16 A No.

17 Q Were they allowed to close any other channels?

18 A No.

19 Q Is that different than any of the markets that you've  
20 worked in?

21 A No.

22 Q Are you aware of whether or not a shift supervisor ever  
23 made the decision to close the cafe at east Robinson?

24 A Not without store manager approval, no.

25 Q Did you close a cafe during the time that you were in the



1 Buffalo market for any reason while working at the East  
2 Robinson location?

3 A Yes.

4 Q And can you tell us on what occasion the cafe was closed?

5 A Yeah. There were a couple of times that they had  
6 significant call outs of partners that didn't equate to a good  
7 customer or partner experience. So we chose to close the cafe  
8 and keep the drive thru open in order to support our partners.

9 Q Are there any channels that as a shift supervisor could  
10 close on their own?

11 A No. I mean, physically they could close the lobby, but  
12 they're not able to make that decision.

13 Q What about disabling mobile ordering? How does that work?

14 A That should be done by the store manager with the district  
15 manager approval via an email.

16 Q And who is to send that email?

17 A That would be the store manager and district manager.

18 Q While you were at the East Robinson store, was is being  
19 used for training purposes?

20 A When I first arrived is was training location. Within a  
21 few weeks I removed us from that program.

22 Q And why did you remove this store from that program?

23 A With the amount of call outs that we were dealing with, it  
24 just wasn't plausible to be training new partners in an  
25 environment where we didn't have our partners showing up to



1 work.

2 Q How soon after your arrival did you experience a number of  
3 calls outs?

4 A The very first day.

5 Q And how many call outs did you experience the very first  
6 day; do you recall?

7 A I couldn't say an exact number that day, but almost every  
8 day we averaged at least two.

9 Q And was that typical with your prior experience before  
10 arriving in Buffalo?

11 A No. I've never had that many call outs in any store.

12 Q And how did it impact the operation -- how did the call  
13 outs impact the operations at the East Robinson store?

14 A We ended up actually limiting our store hours. We were  
15 open only from 6 a.m. to 6 p.m. And even sometimes we would  
16 end up closing earlier than that, or turning off mobile orders,  
17 or closing the café, simply because partners weren't showing up  
18 and we wanted to make sure that we were supporting the ones  
19 that were.

20 Q What were the normal store hours when you first arrived?

21 A If I recall correctly, I believe it was 5:30 to 9:30.

22 Q Were there peak hours at the East Robinson location?

23 A Yeah. Generally, our peak would be around 7:30 in the  
24 morning to 9:30 in the morning.

25 Q And about how many partners would be on staff during peak



1 hours?

2 A Well, roughly seven most of the time.

3 Q During the time that you were at the East Robinson  
4 location, did you observe shift supervisors training baristas?

5 A No. Shift supervisors aren't supposed to train baristas.

6 Q Did you have barista trainers in this store?

7 A Yes. East Robinson had a few barista trainers, but again,  
8 we left that program very quickly after me being here. So we  
9 did not have any more barista trainers.

10 Q Do you know if there was a centralized training store  
11 still operating in the Buffalo market after March of 2022?

12 A I believe so, yes.

13 Q Do you know where?

14 A I couldn't list the location, specifically. There were  
15 stores that as staffing issues occurred, they would remove  
16 themselves and add different stores. So I'm not sure exactly  
17 which locations.

18 Q During the time that you were in the East Robinson store  
19 as store manager, did you have occasion to discipline anyone  
20 for time and attendance?

21 A Yes.

22 Q And who was that?

23 A I issued a few. I know that Guss Birtha was one of them.  
24 Victoria Conklin, and Denasia Stewart (sic), I believe, as  
25 well.

1 Q If you turn over to Exhibit Number 290. Do you recognize  
2 that document?

3 A Yes, I do.

4 Q And what is it that document?

5 A That is a corrective action for Rokhya for time and  
6 attendance.

7 Q And whose signature is that on the bottom of that  
8 document?

9 A That's Elizabeth Pool.

10 Q And was still present in the store at the time?

11 A When I first arrived, she was there for about a week.  
12 Yes.

13 Q And did you have any involvement in the issuance of this  
14 corrective action form?

15 A I did not.

16 Q Did you later provide any further time and attendance  
17 corrective action to Ms. -- I don't know to pronounce this.  
18 Cisse, C-I-S-S-E-?

19 A Yes, I did.

20 Q And do you recall when that was issued?

21 A I don't recall the exact date. I would say in May, if I  
22 believe.

23 Q And going back to Exhibit 290, would that be contained  
24 within this Ms. Cisse -- Ms. Cisse's personnel file?

25 A Yes, it is.



1 Q And is that a document that you would refer to prior to  
2 determining what corrective action you would take?

3 A Yes, it is.

4 Q And did you, in fact, look at this R-290 before you made a  
5 decision as to what disciplinary action to issue to Ms. Cisse?

6 A Yes.

7 MS. POLITO: Your Honor, I'd offer Exhibit R-290 for the  
8 sole purpose that the witness testified that she reviewed this  
9 document prior to issuing time and attendance discipline to Ms.  
10 Cisse.

11 MS. STANLEY: I'm going to object, Your Honor. First of  
12 all, I think if that's the purpose of it, we should have the  
13 actual discipline that was issued. And second of all, as we  
14 notice in prior forms, there's no witness signature. Why?  
15 Whether that's on a different page that we don't have or just  
16 isn't on this document, I don't know. But I would object on  
17 that basis, as well.

18 MS. POLITO: Judge, I'll withdraw R-290.

19 **(Respondent Exhibit Number 290 Withdrawn)**

20 Q BY MS. POLITO: Ms. Haven, you testified that you do  
21 recall giving Ms. Cisse a final written warning for time and  
22 attendance?

23 A Yes, I did.

24 Q And do you recall when that was?

25 A I believe in May.

1 Q And how did you determine that a final written warning was  
2 appropriate?

3 A She was already given a written corrective action in March  
4 for time and attendance. So the next step up would be a final  
5 written.

6 Q And when you gave Ms. Cisse and final written warning,  
7 would that be an actual, physical document?

8 A Yes, it is.

9 Q And that would contained within her personnel file?

10 A Yes, it is.

11 Q What -- what would be the reason if it was not contained  
12 in her personnel file; do you know?

13 A There's not really reason why it shouldn't be. At that  
14 point it should be in there. We don't send partner files back  
15 until a partner is separated from the company.

16 Q And when you say sent partner files back, where do you  
17 send partner files to once a partner is separated from the  
18 company?

19 A We send them to a return document center where Starbucks  
20 keeps them on file.

21 Q Who were the other individuals that you recall issuing  
22 time and attendance for?

23 A I recall Guss BIRTHA, Denasia Stewart (sic), and I also  
24 believe Alexa Dean (phonetic).

25 Q If you could take a look at Exhibit Number 292. And can



1     you tell us if you've seen that document before?

2     A     Yes. I have.

3     Q     And what is that document?

4     A     That is Guss' corrective action that I issued him for time  
5     and attendance.

6     Q     And is that your name that appears on that document?

7     A     Yes, it is.

8     Q     And did Guss Birtha sign the document on page 2?

9     A     Yes, he did.

10    Q     And when did you give that corrective action?

11    A     That was May 24th, 2022.

12    Q     And what did you take a look at in order to determine that  
13    the document coaching was the appropriate corrective action?

14    A     We have a -- a coach, a -- a partner resource coach that I  
15    used, as well as calling the contact center and speaking with  
16    a partner relations representative.

17    Q     How did you know that Guss was late on the dates indicated  
18    in the corrective action form?

19    A     I looked at his time card.

20    Q     And how did you determine that documented coaching was  
21    appropriate over a written warning?

22    A     Because he had no previous corrective actions.

23           MS. POLITO: Your Honor, I offer R-292 into evidence.

24           MS. STANLEY: No objection.

25           JUDGE ROSAS: Respondent's 292 is received.



1 (Respondent Exhibit Number 292 Received into Evidence)

2 Q BY MS. POLITO: Did you treat any of the individual  
3 partners at East Robinson location different based on their  
4 Union affiliation?

5 A Absolutely not.

6 Q Did you witness anyone else in the store treating any of  
7 the partners differently based on their Union -- Union  
8 affiliation, and specifically Ms. Pool and Ms. Clark?

9           A       No, I did not.

10 Q Did you ever at the East Robinson store not to talk about  
11 Union activity?

12           A       No, I did not.

13 MS. POLITO: I have nothing further, Judge.

14 MS. STANLEY: Jackie?

15 MS. POLITO: Sorry.

16 MS. STANLEY: Did you -- are you not going to offer 291?

17 MS. POLITO: No, I'm not. Thank you, though.

18 MS. STANLEY: Okay. No, I just wanted to make sure. Do  
19 you want to take it back or --

20 MS. POLITO: Sure. Thank you.

21 JUDGE ROSAS: General Counsel?

22 MS. STANLEY: Okay.

23 CROSS-EXAMINATION

24 Q BY MS. STANLEY: Hi Ms. Haven.

25            A       Hi.

1 Q What's your current job?

2 A I'm the store manager.

3 Q Where?

4 A In Gaithersburg, Maryland.

5 Q You testified before that you came to Buffalo in March of  
6 2022?

7 A Yes.

8 Q Do you remember the first day you actually were physically  
9 present at East Robinson?

10 A I want to say March 28th.

11 Q Okay. And how long do you overlap with Lukeitta Clark at  
12 East Robinson?

13 A I believe that she was employed at the company for roughly  
14 three weeks after I started at East Robinson, but if I recall  
15 correctly, she was only there for two weeks before she went on  
16 the leave of absence.

17 Q How long did you overlap with Liz Pool at East Robinson?

18 A I believe it was one week.

19 MS. STANLEY: I have nothing further.

20 JUDGE ROSAS: Anything else?

21 MS. POLITO: No redirect, Judge.

22 JUDGE ROSAS: All right. Your testimony is concluded. Do  
23 not discuss your testimony with anyone until you are advised  
24 otherwise by Counsel. All right. Have a good day.

25 THE WITNESS: Thank you.



1 JUDGE ROSAS: Off the record.

2 (Off the record at 3:20 p.m.)

3 JUDGE ROSAS: Any other witnesses today?

4 MS. POLITO: No, Judge.

5 JUDGE ROSAS: Okay. We'll adjourn until tomorrow at 9  
6 a.m. Off the record.

7 (Off the record at 3:20 p.m.)

8 JUDGE ROSAS: We're back on the record to discuss some  
9 unfinished business. Respondent's 293 and 294. We've had  
10 extensive discussion off the record. And we've pinpointed  
11 where in the record there was testimony by Ms. Conklin that  
12 relates to alleged treatment by a manager of her because of her  
13 activities or support for the Union. Specifically, page 1910  
14 to 1911, starting at line 21 of 1910. Concluding on line 1 of  
15 1911.

16 Okay. So on that basis, General Counsel, I -- I believe  
17 you've stated your -- your objection?

18 MS. STANLEY: Yes, Your Honor.

19 JUDGE ROSAS: Okay. And is there anything more than the  
20 Respondent needs to add at this point?

21 MS. POLITO: No, Your Honor.

22 JUDGE ROSAS: Okay. So I'm -- I'm going to receive it  
23 over objection, you know, to the extent that it -- it is not  
24 any -- any subsequent discipline that -- that Ms. Conklin may  
25 have received is not relevant to this case.

1       **(Respondent Exhibit Number 293 and 294 Received into Evidence)**

2           JUDGE ROSAS:  However, the Respondent, as I understand it,  
3       is offering these 293 and 294  as evidence of prior discipline  
4       issued by the Respondent, albeit in 2018 and 2019.  As well as  
5       prior history -- prior personal history of Ms. Conklin, as a  
6       Respondent offers it  with respect to this allegation that she  
7       was treated in some disparate fashion, as I just indicated in  
8       the record.

9           Okay.  Is there anything else?

10          MS. POLITO:  No, Your Honor.

11          JUDGE ROSAS:  Okay.  All right.  So we'll adjourn until  
12       tomorrow.  See everybody then.  Off the record.

13       **(Whereupon, the hearing in the above-entitled matter was**  
14       **recessed at 3:48 p.m. until Wednesday, September 14, 2022 at**  
15       **9:00 a.m.)**

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C E R T I F I C A T I O N

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 3, Case Numbers 03-CA-285671, 03-CA-290555, 03-CA-291157, 03-CA-291196, 03-CA-291197, 03-CA-291199, 03-CA-291202, 03-CA-291377, 03-CA-291378, 03-CA-291379, 03-CA-291381, 03-CA-291386, 03-CA-291395, 03-CA-291399, 03-CA-291408, 03-CA-291412, 03-CA-291416, 03-CA-291418, 03-CA-291423, 03-CA-291431, 03-CA-291434, 03-CA-291725, 03-CA-292284, 03-CA-293362, 03-CA-293469, 03-CA-293489, 03-CA-293528, 03-CA-294336, 03-CA-293546, 03-CA-294341, 03-CA-294303, 03-CA-206200, Starbucks Corporation and Workers United, held at the National Labor Relations Board, Region 3, Robert H. Jackson United States Courthouse, US District Court for the Western District of New York, 2 Niagara Square, Wyoming Courtroom, 5th Floor, Buffalo, New York 142020, on September 13, 2022, at 9:16 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.



ELAINE LAROSEE

Official Reporter

